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VOLUME I
TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 74

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, CONSOLIDATED FREIGHTWAYS, INC., ET AL., APPELLANTS

vs.

PIERCE AUTO FREIGHT LINES, INC., LOS ANGELES-SEATTLE MOTOR EXPRESS, ANGELO COLLETTI, PACIFIC MOTOR TRUCKING COMPANY, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF OREGON

FILED MAY 14, 1945

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INDEX

	Original	Print
Record from D. C. U. S., District of Oregon	1	1
Complaint	1	1
Exhibit A—Report and order of Commission in Docket No. MC–42487, March 1, 1943	13	9
Exhibit B—Certificate of Public Convenience and Necessity, Sept. 7, 1943, Docket No. MC–42487	61	45
Exhibit C—Certificate of Public Convenience and Necessity, Sept. 15, 1943, Docket No. MC–9115	63	47
Answer of the United States	65	48
Intervention of Interstate Commerce Commission	68	50
Answer of the Interstate Commerce Commission	69	50
Notice of motion for leave to intervene	74	53
Petition of Consolidated Freightways, Inc., for leave to intervene as a defendant	75	54
Answer of Intervenor, Consolidated Freightways, Inc	76	54
Notice of motion for leave to intervene	84	60
Petition of Oregon-Nevada-California Fast Freight, Inc., for leave to intervene as a defendant	85	61

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Answer of Intervenor, Oregon-Nevada-California Fast Freight, Inc., and affidavit of mailing	86	61
Opinion, Fee, J., Sept. 20, 1944	89	63
Memorandum opinion, Fee, J., Nov. 10, 1944	102	72
Findings of Fact and Conclusions of Law	104	74
Decree	111	81
Order staying effect of decree pending appeal	113	83
Petition for Appeal	115	84
Notice of Appeal	117	85
Assignment of Errors	120	87
Order Allowing Appeal	124	91
Notice of Appeal to Attorney General for the State of Oregon	125	91
Citation on Appeal [omitted in printing]	127	92
Petition of defendants to stay court decree pending appeal to the Supreme Court of the United States	129	92
Petition to have original documents, a part of the record before the court, transmitted to the clerk of the Supreme Court of the United States, as a part of the record upon appeal	132	94
Order of Court authorizing and directing the clerk of court to transmit to the clerk of the Supreme Court original documents in the court record, as part of the transcript of record upon appeal	134	96
Praecipe for transcript of record	136	97
Docket entries	139	99
Clerk's certificate	141	101
Transcript of hearing	143	102
Caption and appearances	143	102
Colloquy between Court and counsel	144	102
Plaintiffs' presentation:		
Argument by Mr. Ivers	165	114
Argument by Mr. Ellis	172	118
Defendants' presentation:		
Argument by Mr. Pierce	194	130
Argument by Mr. Berol	212	140
Argument by Mr. Schafer	228	148
Argument by Mr. Crenshaw	233	151
Plaintiffs' rebuttal:		
Argument by Mr. Ellis	241	156
Argument by Mr. Hampson	246	158
Reporter's certificate	250	160
Plaintiffs' exhibit 1—Transcript of testimony in Docket MC-9115, Sub. Number 1, before I. C. C., in the matter of the application of Oregon-Nevada-California Fast Freight, Inc., etc	1	161
Caption and appearances	1	161
Colloquy	6	162
Stipulation retestimony of H. C. Berger	13	166

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Transcript of hearing—Continued		
Plaintiffs' exhibit 1—Continued		
Testimony of:		
J. A. Gritsch	20	169
L. F. Herron	53	188
Virginia Jones	71	198
Ivan L. McCabe	91	210
David Wilson	107	219
L. V. Smart	131	232
Arthur Hendershott	144	240
C. R. Veal	158	247
Charles Dawson	173	256
Carl Bismark	202	270
J. A. Gritsch (recalled)	222	281
Carl Bismark (recalled)	248	296
L. W. Bates	256	301
D. L. Flynn	264	305
M. H. Shook	272	310
Charles A. Braden	295	322
Helen Hill	310	330
Frank L. Taylor	328	341
Ellie G. Dunn	339	347
Francis C. Fisher	343	349
S. Frink	355	356
Olin Shook	363	361
F. H. Strong (Stipulation)	376	368
L. C. Jones	380	370
G. F. Chambers	390	376
R. B. Coulson	400	381
John A. Layley	413	388
Don B. Lewis	439	402
Arthur W. Lee	461	414
N. D. Myers	495	433
O. C. Howlett	512	443
Gordon Bruce	521	447
Ray Gallagher	525	450
C. C. Farr	537	456
C. C. Cady	546	461
Richard Toban	554	466
Don C. Toye	567	473
H. H. Dickson	588	484
Harry Dorman	598	490
E. E. McCracken	613	499
E. A. Albrecht	623	504
Amos Merkey	632	510
R. G. Ott	638	512
Anthony D. Plancich	643	516
L. C. Jones (recalled)	655	522
James Shannon Betts	692	543

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Transcript of hearing—Continued		
Plaintiffs' exhibit 1—Continued		
Testimony of—Continued		
Glen R. Gunderson	710	554
Mary Wunderlich	722	560
Frank R. Russell	733	567
George Edmond Harvey	749	576
Arthur Holmes Cordes	766	585
H. W. Gerken	773	589
A. S. Ramos	789	598
Dave A. Gregg	798	603
Kenneth A. Robertson	825	618
Elmer R. Berger	831	621
C. Bud Meredith	841	626
Chester B. Hahn	874	645
Harry G. Rowe	878	647
James G. Walton	892	655
Charles A. Klinkner	903	661
Harry W. Bishop	926	674
Winifred Hopkins Goodell	951	688
R. E. Barry	964	695
B. J. Holmes	969	698
J. Glenn Stark	1002	715
G. C. Irvine	1017	724
J. W. Lind	1021	726
Jerome Smith	1042	737
W. E. Brannon	1056	745
Chester A. Hubbard	1089	763
Montague L. Hewett	1099	769
J. H. Wilsey	1110	774
J. P. Underhill	1131	786
Ivy Mable Lane	1164	804
A. H. Gritsch	1175	810
J. A. Gritsch (recalled)	1219	834
W. G. Stone	1376	920
Clarence Miller	1416	942
John Ferrero	1460	966
Andrew Thuesen	1495	985
Robt. H. Howry	1517	997
B. A. White	1529	1004
Harold Frasher	1564	1023
T. G. Williams	1619	1052
Robt. S. Elliott	1627	1057
Harold M. Hayes [omitted in printing]	1636	1078
George S. Butler [omitted in printing]	1688	1078
E. H. Lindsey [omitted in printing]	1721	1078
Clair W. MacLeod	1784	1080
E. H. Lindsey (resumed) [omitted in printing]	1794	1080

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Transcript of hearing—Continued		
Plaintiffs' exhibit 1—Continued		
Testimony of—Continued		
John Hesselbrock	1830	1085
Oscar M. Hendrickson	1917	1133
Paul P. Farrens [omitted in printing]	2018	
Robert Hadley	2023	1187
Paul P. Farrens (recalled) [omitted in printing]	2031	
J. S. Moore [omitted in printing]	2035	
A. G. Pierce	2082	1207
A. C. Pierce (recalled)	2135	1236
John E. Hennessy	2210	1276
S. D. Buell	2262	1304
A. C. Pierce (recalled)	2280	1313
A. C. Pierce (recalled)	2317	1333
R. W. Lacey	2382	1368
Oscar W. Hendrickson	2412	1385
J. A. Gritsch	2416	1387
L. F. Weisler	2440	1400
Leland James	2458	1409
S. D. Buell	2481	1422
Plaintiffs' exhibit 2—Exhibits offered in Docket MC-9115, Subnumber 1, before I. C. C.	2500	1432
No. 2—Balance sheet of O. N. C. F. F. as of May 31, 1940	2501	1432
No. 3—Statement of operating revenues and expenses, July 1, 1939, to May 31, 1940	2503	1433
No. 4—Statement of yearly revenues between 1934 and 1939, etc.	2504	1434
No. 5—Circular letter No. 814, July 10, 1940	2505	1434
No. 6—Record of tonnages handled thru Bonneville locks	2506	1435
No. 7—Statement showing résumé of tonnage originated at San Francisco Bay points, etc., 1939	2507	1436
No. 8—Statement showing portion of revenue available under existing divisions for transportation only over routes in Oregon	2508	1437
No. 9—Statement showing résumé of tonnage originated at San Francisco Bay points, etc., 1940	2509	1438
No. 10—Letter, Leland James to T. S. Carter et al., Oct. 14, 1938	2510	1438
No. 11—Partial list of motor carriers serving between California and Oregon and Washington points, etc.	2512	1440

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Transcript of hearing—Continued		
Plaintiffs' exhibit 2—Continued		
No. 14—Schedule showing Railway Express service between San Francisco, Oakland, Alameda and Berkeley and various points	2517	1442
No. 28—List of equipment now in operation by Colletti Fast Freight	2518	1444
No. 29—Schedule of equipment operated by Los Angeles Seattle Motor Express, Inc	2519	1444
No. 30—Statement showing history of various shipments	2521	1446
No. 36—Brief for protestants in I. C. C. Docket MC-1592	2539	1461
No. 37—Letter, Leland James to T. S. Carter et al., Oct. 14, 1938	2542	1463
No. 38—Extracts from testimony of J. A. Gritsch before I. C. C. in Docket No. MC-17593 Sub. 1	2544	1465
No. 39—Same in Docket No. MC-68618 Sub. 1	2546	1466
No. 40—Comparative statement of operating revenues and expenses—Pierce Auto Freight Lines, Inc., 1935-1940	2552	1470
No. 41—Same, 1938-1940	2553	1471
No. 42—Graph showing trend of average rates per ton, 1938-1940	2553-A	1472
No. 43—Statement showing tonnage transported on a weekly thru schedule 1939-1940	2554	1473
No. 44—Summary of tonnage transported on a daily schedule, June 24 to July 25, 1940	2555	1473
No. 45—Statement showing tonnage ratio, 1939-1940	2556	1474
No. 46—Summary of trip logs between Portland and San Francisco July 1 to 27, 1940	2557	1475
No. 47—Same between San Francisco and Portland	2558	1478
No. 48—Statement of departure and arrival times of O. N. C. F. F.—Northbound	2559	1480
No. 49—Same, Southbound	2562	1481
No. 51—Letter, W. G. Stone to Pierce Auto Freight Lines, Inc., Oct. 25, 1939	2565	1482
No. 54—Statement showing interstate operations of Pacific Motor Trucking Co. in California and Oregon as of Sept. 26, 1940	2566	1484
No. 55—Same, Pacific Truck Express	2568	1488
No. 56—Examples of rail and coordinated rail-truck service, Southern Pacific Co	2569	1488
No. 57—Same	2570	1489
No. 58—Schedules for handling interstate traffic in Oregon—Pacific Truck Express	2571	1490

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Transcript of hearing—Continued		
Plaintiffs' exhibit 2—Continued		
No. 59—List of freight agency stations maintained by Southern Pacific Co. et al	2572	1491
No. 60—Statement of carload traffic consigned to Lakeview Creamery, etc	2575	1493
No. 61—Same, less-than-carload traffic	2576	1493
No. 62—Same, consigned to Adams and Reynolds	2577	1494
No. 63—Same	2578	1494
No. 64—Financial statistics—Consolidated Freightways, Inc	2579	1495
No. 65—Letter, A. C. Pierce to W. P. Fuller & Co., June 28, 1940, and attached list of carriers	2582	1497
No. 66—Statement containing excerpts of statement by witness A. C. Pierce in Docket No. MC-17593, Sub. No. 1	2585	1499
No. 69—Recapitulation of revenues, etc.—Cascade Fast Freight	2590	1502
Plaintiffs' exhibit 3—Transcript of testimony in Docket MC-42487, Sub. Numbers 15, 18, 19, and 20, before I. C. C., in the matter of the application, as amended, of Consolidated Freightways, Inc., etc	1	1503
Caption and appearances	2	1503-4
Colloquy	5	1505
Testimony of:		
L. F. Weisler	22	1513
Leland James	69	1540
E. S. Heydenburk	162	1590
D. W. Hoffman	185	1602
Clarence A. Chase	225	1625
Robert E. Banning	245	1636
Roland Clarence Jory	290	1661
George A. Halford	305	1668
Robert O. Bottmiller	326	1680
R. M. Johns	332	1684
Jack Allen	357	1697
Fred Basche	379	1709
C. J. Waltz	382	1711
Clifford W. Hurt	405	1723
Thomas L. Compton	427	1735
Edward B. Williamson	441	1743
Frank D. Kimsey	447	1747
J. B. W. Duncan	458	1753
J. E. Turnbull	527	1771
J. L. S. Snead, Jr	534	1774
George Stadelman	626	1825

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Transcript of hearing—Continued		
Plaintiffs' exhibit 3—Continued		
Testimony of—Continued		
Richard Withycombe	638	1832
W. L. Johnson	648	1838
R. B. Peterson	664	1847
William C. Ulett [omitted in printing]	679	
Dick A. King [omitted in printing]	716	
George Johnson [omitted in printing]	738	
Robert H. Hunt	758	1855
Fred Burton	774	1864
J. A. Larson [omitted in printing]	776	
A. M. Kahl [omitted in printing]	792	
W. R. DeGrasse	817	1865
A. C. Street [omitted in printing]	829	
George E. Saling	844	1871
G. W. Burns	850	1875
Harry Selfridge	857	1879
Glen G. Hays	863	1882
Clyde A. Ross	866	1884
Virgal R. Chilson [omitted in printing]	868	
H. O. Berger	911	1885
R. T. Moore [omitted in printing]	936	
Henry Dolge, Jr. [omitted in printing]	955	
J. L. S. Snead, Jr. (recalled)	983	1901
Leland James	1017	1920
Ethan Tonole [omitted in printing]	1100	
P. J. Hanns	1114	1966
Joe Marshall	1129	1975
Ralph Cook	1148	1986
Orren Brownson	1167	1994
Lee L. Brosy	1199	2012
L. C. Austin	1204	2016
Charles E. Gray	1214	2021
Ted Swan	1224	2027
Ray Culbertson	1242	2037
Leland James	1261	2049
Robert Ashby	1341	2097
Ewald T. Grether	1395	2122
W. H. Geraghty	1443	2148
Fred P. King	1456	2155
Milton A. Callaway	1497	2177
Fred P. King (resumed)	1517	2188
Alvin Langfield	1553	2208
H. I. Stearns	1581	2223
E. J. Quinn	1608	2238
George W. Hicks	1618	2243
Robert S. Adams	1650	2260
William Husband	1674	2273

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Transcript of hearing—Continued		
Plaintiffs' exhibit 3—Continued		
Testimony of—Continued		
William N. Nelson	1716	2296
C. T. Carlen	1730	2303
F. P. King (recalled)	1743	2310
Clifford Edward Kamph [omitted in printing]	1763	
J. L. Hicks	1812	2321
I. R. Perry [omitted in printing]	1827	
Lowell Walstrom [omitted in printing]	1838	
L. F. Weisler (resumed)	1895	2337
Jackson W. Kendall [omitted in printing]	1954	
Plaintiffs' exhibit 4—Exhibits offered in Docket MC–42487, before I. C. C.	1976	2371
No. 2—Time and service schedule of Consolidated Fregihtways, Inc	1977	2371
No. 2–A—Corrected time and service schedule of Consolidated Freightways, Inc	2010	2401
No. 3—Statement showing comparison in number of Northbound coastwise steamer sailings etc	2043	2429
No. 4—Statement showing frozen fruit production for Oregon and Washington, 1927–1939	2044	2431
No. 5—Excerpt from Frozen Foods Directory (1939 edition)	2045	2432
No. 7—Statement showing time of arrival of O. N. C. F. F. trucks and trailers at Medford, etc	2046	2433
No. 8—Balance sheet as at May 31, 1940—Consolidated Freightways, Inc	2047	2434
Nos. 9–A and 9–B—Letters, Leland James to J. A. Gritsch, May 27, 1938 and Oct. 30, 1939	2048	2435
No. 10—Breakdown of present North-bound and South-bound tonnage from and to California	2051	2437
No. 11—Statement showing number of shipments and tonnage handled in month of May, 1940, etc	2055	2439
No. 12—Letter, Leland James to T. S. Carter, et al., Oct. 14, 1938	2056	2440
No. 13—Statement showing number of new factories and wholesalers establishing themselves in San Francisco and Oakland, 1937–1940	2058	2442
No. 25—Examples showing how misinformation is received at Consolidated Freightways' Medford office from O. N. C. F. F.	2059	2443
No. 26—Map showing density of population	2060	2444
No. 30—Brief for protestants in I. C. C. Docket No. MC–1592	2062	2446
No. 31—Extracts from testimony of Leland James before I. C. C. in Docket No. MC–17593, Sub. 1	2065	2448

	Original	Print
Record from D. C. U. S., District of Oregon—Continued		
Transcript of hearing—Continued		
Plaintiffs' exhibit 4—Continued		
No. 32—Extracts from testimony of O. C. Bennett before I. C. C. in Docket No. MC–17593, Sub. 1	2070	2451
Plaintiffs' exhibit 5—Exceptions of Oregon-Nevada-California Fast Freight, Inc. to report and order of Examiner in Docket No. MC–9115, Sub. No. 1	2073	2453
Plaintiffs' exhibit 6—Petition for reconsideration, further hearing, and postponement of issuance of certificate, and brief in support thereof, filed on behalf of protestants in Dockets MC–42487 and MC–9115	2140	2485
Plaintiffs' exhibit 7—Applicant's reply to petition for reconsideration in Docket No. MC–42487, Sub. Nos. 15 and 20	2206	2520
Plaintiffs' exhibit 8—Reply of applicant Oregon-Nevada-California Fast Freight, Inc. to petition of protestants for reconsideration, etc	2280	2558
Plaintiffs' exhibit 9—Certified copy of report and order of Interstate Commerce Commission in Docket MCF–1317, Consolidated Freightways, Inc.—Purchase—C. G. Reymers	2324	2580
Plaintiffs' exhibit 10—Orders of Interstate Commerce Commission and opinions in Docket No. MCF–1411	2339	2592
Plaintiffs' exhibit 11—Opinion and order of Interstate Commerce Commission in Docket MC–18231, Sub. No. 4, Oregon Express—Extension—Alternate Routes	2362	2614
Consolidated Freightways' exhibit 12—Protestants' brief in I. C. C. Dockets MCF–1358 and MCF–1317	2368	2619
Statement of points to be relied upon and designation of parts record to be printed	2380	2620
Order noting probable jurisdiction	2383	2621
Stipulation as to printing of record	2385	2621

1 In the District Court of the United States for the District of Oregon

No. Civil 2340

PIERCE AUTO FREIGHT LINES, INC., A CORPORATION, LOS ANGELES-SEATTLE MOTOR EXPRESS, A CORPORATION, ANGELO COLLETTI, DOING BUSINESS UNDER THE ASSUMED NAME AND STYLE OF COLLETTI FAST FREIGHT, PACIFIC MOTOR TRUCKING COMPANY, A CORPORATION, AND PACIFIC SOUTHWEST RAILROAD ASSOCIATION, PLAINTIFFS

vs.

THE UNITED STATES OF AMERICA, DEFENDANT

Complaint

Filed Jan. 13, 1944

To the Honorable Judges of the District Court of the United States for the District of Oregon:

Come now the plaintiffs above named, and for their cause of suit against the defendant, allege and show:

I

That the plaintiff Pierce Auto Freight Lines, Inc., is a corporation, duly organized and existing under and by virtue of the laws of the State of Oregon, with its principal place of business at Medford, Oregon; that said corporation is engaged in the business of transporting general commodities for hire in interstate and foreign commerce as a common carrier over U. S. Highways 99, 99-E, 99-W, and connecting highways, and over alternate routes, among other places, between Portland, Oregon, and San Francisco, California, serving all intermedaie points; that said plaintiff is a motor carrier as defined by the Federal Motor Carrier Act, 1935, as amended, is subject to the jurisdiction of the Interstate Commerce Commission and holds an appropriate certificate from said commission duly authorizing it to conduct said common carrier business over the aforesaid route.

2 II

That plaintiff Los Angeles-Seattle Motor Express is a corporation, duly organized and existing under and by virtue of the laws of the State of Washington, with its principal place of business at Seattle, Washington. Plaintiff Angelo Colletti is an individual

doing business under the assumed name and style of Colletti Fast Freight. That said plaintiffs are engaged in the business of transporting general commodities for hire in interstate and foreign commerce as common carriers over U. S. Highways 99, 99–E, 99–W, and connecting highways, and over certain alternate routes, among other places, between Seattle, Washington, and Portland, Oregon, on the one hand, and San Francisco, California, on the other hand; that said plaintiffs are motor carriers as defined by the Federal Motor Carrier Act, 1935, as amended, are subject to the jurisdiction of the Interstate Commerce Commission and held appropriate certificates from said commission duly authorizing them to conduct said common carrier business over the highways aforesaid.

III

That, during all the times mentioned herein prior to December 30, 1942, Pacific Truck Express was a corporation duly organized and existing under and by virtue of the laws of the State of Oregon, with its principal place of business in Portland, Oregon, and was engaged in the business of transporting general commodities for hire in interstate and foreign commerce as a common carrier over U. S. Highways 99, 99–E, 99–W, and connecting highways and over alternate routes, among other places, between Portland, Oregon, and San Francisco, California, serving all intermediate points; that on the 29th day of December, 1942, the Interstate Commerce Commission, by appropriate order entered on that date, authorized the merger of the operating rights and properties of said Pacific Truck Express into Pacific Motor Trucking Company, a corporation duly organized and existing under laws of the State of California, with its principal
3 place of business in San Francisco, California, which said merger was duly consummated, and that said Pacific Motor Trucking Company is now the successor in interest of said Pacific Truck Express with respect to all rights and interests of said Pacific Truck Express which are involved in this litigation; that said Pacific Motor Trucking Company is a motor carrier as defined by the Federal Motor Carrier Act of 1935, as amended, and as such is subject to the jurisdiction of the Interstate Commerce Commission and holds an appropriate certificate from said commission duly authorizing it to conduct the common carrier business above mentioned over the aforesaid route.

IV

That plaintiff Pacific Southwest Railroad Association is a voluntary association embracing in its membership the Class I rail-

roads serving the Pacific Southwest, including among others, the Southern Pacific Company; that the principal place of business of said association is San Francisco, California; that Southern Pacific Company is a railroad as defined by the Interstate Commerce Act, as amended, and is engaged, among other things, in the operation of a common carrier railroad extending, among other places, between Portland, Oregon, and San Francisco, California; that said railroad parallels generally the highway routes above described and serves as a common carrier in large part the points and places along and upon said highway routes.

V

That this suit is brought against the United States of America under the Act of Congress approved October 22, 1913, known as The Urgent Deficiency Act, 38 Stat. L. 219, to enjoin, set aside and annul a certain order entered by the Interstate Commerce Commission (hereinafter called the commission), on first day of March 1943, in certain proceedings known and docketed as
4 Docket MC–42487 (Sub. No. 15), Docket MC–42487 (Sub. No. 18), Docket MC–42487 (Sub. No. 19), Docket MC–42487 (Sub. No. 20), being Consolidated Freightways, Inc., extension applications, and Docket MC–9115 (Sub. No. 1), being an Oregon-Nevada-California Fast Freight, Inc., extension application; also to set aside the certificates of public convenience and necessity issued by the commission in said proceedings, on the 7th and 15th days of September 1943, respectively.

VI

That one of the parties upon whose petitions said order and certificates of the commission hereinbefore referred to were made is Consolidated Freightways, Inc., a Washington corporation, whose residence and principal place of business is at Portland, Oregon, in this judicial district.

VII

That the order and certificates, hereinbefore referred to, the subject of this suit, grant to said Consolidated Freightways, Inc., among other operating rights, the right to transport general commodities in interstate and foreign commerce, between San Francisco, California and Klamath Falls, Oregon, via U. S. Highways 40, 99–W, 99–E, 99 and 97, and between San Francisco, California and Medford, Oregon, via U. S. Highways 40, 99–W, 99–E, and 99; that said order and certificates grant to Oregon-Nevada-Cali-

fornia Fast Freight, Inc., a California corporation, among other operating rights, the right to transport general commodities in interstate and foreign commerce between Medford, Oregon, and Portland, Oregon, over U. S. Highways 99, 99–E, and 99–W; also from Medford, Oregon, to Portland, Oregon, over U. S. Highways 99 and 99–W, Oregon Highway 2 and Oregon Highway 10, also between Klamath Falls, Oregon, and Goshen, Oregon, over U. S. Highway 97 and Oregon Highway 58.

VIII

That such operations are and will be directly competi-
5 tive with the operations of plaintiffs between numerous points and places, and will result in diverting from plaintiffs' lines a substantial amount of tonnage and revenues to the said Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight, Inc., to plaintiffs' irreparable loss, damage and injury; that plaintiffs' operations and businesses will be seriously threatened and directly and adversely affected by the granting of the said operating rights to the said Consolidated Freightways, Inc., and/or Oregon-Nevada-California Fast Freight, Inc., and plaintiffs will be subjected to serious and adverse competition and will be deprived of their property without due process of law, unless said unlawful order and certificates of the commission are set aside as herein prayed, and that the allowing of said certificates to remain in effect will result in unsound and uneconomic conditions in the business of plaintiffs contrary to the National transportation policy of the Interstate Commerce Act.

IX

That by applications in Docket No. MC–42487 (Sub. Nos. 15, 18, 19, and 20), filed in January and May, 1940, as amended, Consolidated Freightways, Inc., applied for certificates of public convenience and necessity authorizing extensions of its operations, in interstate and foreign commerce, as a common carrier by motor vehicle of general commodities, excepting liquid petroleum in bulk in tank trucks, between specified points in Oregon and California, as more particularly described in the order of the commission attached hereto, marked "Exhibit A," and by reference made a part of this complaint.

That by application in Docket No. MC–9115 (Sub. No. 1), filed January 26, 1940, as amended, Oregon-Nevada-California Fast
6 Freight, Inc., applied for a certificate of public convenience and necessity authorizing extensions of operations in interstate or foreign commerce, as a common carrier by motor vehicle of general commodities, with certain exceptions, between

specified points in California, Oregon, and Washington, serving as off-route points Glendale, Oregon, and Camas and Washougal, Washington, all as more specifically described in the order of the commission attached hereto, marked "Exhibit A."

That the respective applications were set down for hearing before Joint Boards number 5 and 11, respectively, at Portland, Oregon, on the 8th day of July 1940, all of the applications of Consolidated Freightways, Inc., being consolidated for hearing upon a single record and the application of Oregon-Nevada-California Fast Freight, Inc., being heard separate and apart therefrom and upon its own record; that the hearings were recessed to other times and places and finally concluded on or about the 29th day of October 1940; that by stipulation of the parties and for the conservation of time part of the record in the proceeding involving Oregon-Nevada-California Fast Freight, Inc., consisting principally of testimony of certain witnesses called on behalf of plaintiffs herein and other protestants in the proceeding, was made a part of the record in the proceding involving Consolidated Freightways, Inc., such testimony being physically incorporated in the record; that the records in connection with the applications of the two companies were made and kept entirely separate.

That the matters were thereafter submitted to said Joint Boards Nos. 5 and 11, respectively, for their consideration and recommended reports and orders, but as neither Joint Board was able to agree as to the recommendations to be made in any instance, the matters were referred to an examiner for further appropriate proceedings and the application in Docket No. MC-9115 (Sub. No. 1), was the subject of one report and recommended
7 order, and the other application the subject of another, both of which reports recommended denial of all applications in their entirety.

That thereafter exceptions were filed by each applicant to the order recommended in its respective case and protestants replied thereto; that thereafter and on the first day of March, 1943, the commission, by Division 5 (Commissioner Rogers dissenting) made and filed a single report and order embracing the issues of all of the described applications of both applicants, granting, among others, the operating authority hereinbefore described, copy of which report and order is attached hereto, marked "Exhibit A."

That thereafter and on or about the 6th day of April, 1943, and within the time prescribed by the rules of the commission, plaintiffs herein duly filed with the commission their petition for reconsideration, and a rehearing for the purpose of submitting new evidence showing the substantial change in transportation conditions since the closing of the record on October 29, 1940, including conditions resulting from the present war emergency, to hold

in abeyance the certificates granted in said order pending the conclusion of said further hearing; or in the alternative and upon the then record, to reconsider and reverse the report and order of Division 5 and deny the several applications in their entirety.

That thereafter and on the 2nd day of August, 1943, said petition was denied and thereafter and on the 7th day of September 1943, a certificate of public convenience and necessity was issued to Consolidated Freightways, Inc., granting, among others, the operating rights hereinbefore described, copy of which certificate is attached hereto marked "Exhibit B", and made a part of this complaint.

That thereafter and on the 15th day of September, 1943, a certificate of public convenience and necessity was issued
8 to Oregon-Nevada-California Fast Freight, Inc., granting, among others, the operating rights hereinbefore described, copy of which certificate is attached hereto, marked "Exhibit C," and made a part of this complaint.

X

Plaintiffs aver and charge that said order of the commission, entered on the first day of March 1943, and said certificates of public convenience and necessity issued pursuant thereto on the 7th and 15th days of September 1943, respectively, were and are unreasonable, and that the same were entered by the commission arbitrarily and under misconception of the law, in utter disregard of the evidence and upon a record so stale as not to reflect in any respect the facts and conditions existing at the time of the entry and issuance thereof, and that the same are null and void and should be set aside, particularly in the following respects:

(1) That the commission misconceived its statutory powers and exceeded its jurisdiction and authority in that it erroneously and improperly considered, in each proceeding embraced in its report and order, evidence not offered or received in said proceeding and not properly a part of the record therein, treating the two separate records as a unit and considering as evidence in each case all of the evidence introduced and received in both cases, and further in that it improperly comingled its report and conclusions in the separate proceedings in a single report in such manner as to make it impossible to determine therefrom which record is depended upon to support a given finding or conclusion or to which proceeding a given finding or conclusion is applicable.

(2) That the commission misconceived its statutory powers and exceeded its jurisdiction and authority in that it erroneously and improperly assumed that the granting of one
9 of the applications of necessity compelled the granting of the other, in utter disregard of the showing made on the

respective records, and without regard to how much or how little additional service, if any, might be required by public convenience and necessity.

(3) That the commission misconceived its statutory powers and exceeded its jurisdiction and authority in that it erroneously and improperly disregarded the burden of proof which was upon the applicants in each of said proceedings, and notwithstanding the failure of said applicants, and each of them, to sustain the burden of proof, particularly as to their respective abilities to render the proposed service, waived such legal requirement by extending "benefit of doubt" to each said applicant on all controversial issues relating thereto.

(4) That the conclusions of the commission are not supported by its findings, particularly in that the report and order herein contain no finding that existing carriers are not adequately equipped, able, and willing to serve the needs of all of the shippers within the territory involving in an adequate or efficient manner, or that they, or any of them, are or were unable or unwilling to provide additional equipment or service when needed, nor is there evidence in these records, or either of them, upon which such a finding might have been sustained.

(5) The report and order contain no finding that the granting of these applications, or either of them, will not result in the impairment of the ability of existing carriers to continue to serve the public, nor is there evidence in these records, or either of them, sufficient to sutain such a finding; that said commission has, in proceedings designated Docket MCF-1311 and MCF-1358, on a later record involving proposed service over the identical routes authorized herein, by the process of purchase or lease of connecting carriers, specifically found that "the loss of traffic by existing carriers would be likely to impair the ability to render an adequate service over their routes" and accordingly denied the applications.

(6) That the commission misconceived its statutory powers and exceeded its jurisdiction and authority in that it erroneously assumed and concluded that evidence of alleged inefficiencies and difficulties in the joint line service heretofore provided by the two applicants, resulting from the inability or refusal of the two applicants to agree upon satisfactory arrangements for interchange of freight or equipment, established the existence of public convenience and necessity for the duplication by each applicant of the service of the other.

(7) That the report and order of the commission are predicated upon a record which was begun two years and nine months and closed two years and four months prior to the date of said

order, which record, in the light of the tremendous change in the transportation system of the area by reason of the war and other matters related thereto, fails completely to reflect conditions existing at the time of the making of such findings or at any time since.

(8) That the said report and order of the commission are unreasonable and arbitrary in that they are inconsistent and in direct conflict with another report and order of the commission in a like proceeding involving the application of Oregon Express, Inc., to render through service over the identical routes involved herein, designated Docket MC–18231 (Sub. No. 4), which proceeding was submitted and decided December 26, 1942, on a record closed on January 31, 1942, wherein the commission found that public convenience and necessity for a new and additional through service such as authorized herein had not been
11 shown to exist, wherein the commission likewise found that it had not been shown that the practice of interchanging freight between the two applicants herein had not satisfactorily met the public need, and wherein the commission affirmatively approved the adequacy of the existing service and found that the plaintiffs as existing carriers were competent and able to properly handle all available traffic.

(9) That such findings as were made by the commission are wholly insufficient to support the order herein.

XI

Plaintiffs further aver that by its order denying their petition for reconsideration, for further hearings and for other relief as hereinbefore described the commission has deprived the plaintiffs of a full and fair hearing on the issues of this proceeding in that they have been denied the opportunity to present evidence of the facts and conditions in the transportation industry in the territory affected by the findings and order herein described as of the date of the order and of the petition for rehearing, and in that said petition for reconsideration and rehearing was denied notwithstanding the offer of these plaintiffs to establish by competent evidence that all controlling statements of fact relied upon by the commission to sustain its conclusions and order were as of the date of the report and order and as of the date of said petition entirely and completely untrue.

XII

That plaintiffs have no plain, speedy, or adequate remedy at law in the premises.

Wherefore plaintiffs pray that said findings and order and certificates of the commission in the proceedings herein
12 referred to, insofar as the same grant to the applicants named, or either of them, any operating rights whatever, be set aside and annulled by this court, and that plaintiffs have such other and further relief in the premises as the nature of the case shall require and to this court shall seem meet.

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Attorneys for Plaintiff.

[File endorsement omitted.]

13 *Exhibit A to complaint*

INTERSTATE COMMERCE COMMISSION

No. MC–42487 (Sub. No. 15)[1]

CONSOLIDATED FREIGHTWAYS, INC., EXTENSION—KLAMATH FALLS, OREG.,—SAN FRANCISCO, CALIF.

Submitted December 31, 1941. Decided March 1, 1943

1. Public convenience and necessity found to require operation by Consolidated Freightways, Inc., as a common carrier by motor vehicle of general commodities, with exceptions, between specified points in California and Oregon, over regular routes, serving intermediate points.
2. Public convenience and necessity found to require operation by Oregon-Nevada-California Fast Freight, Inc., as a common carrier by motor vehicle of general commodities, with exceptions, in interstate or foreign commerce, between specified points in Oregon, over regular routes, serving intermediate and off-route points.
3. Issuance of certificates approved upon compliance by applicants with certain conditions, and applications in all other respects denied.

[1] This report also embraces No. MC–42487 (Sub. No. 18), Consolidated Freightways, Inc., Extension—Lakeview; No. MC–42487 (Sub. No. 19), Same, Extension—Marshfield; No. MC–42487 (Sub. No. 20), Same, Extension—Medford; and No. MC–9115 (Sub. No. 1), Oregon-Nevada-California Fast Freight, Inc., Extension—Portland.

Edward M. Berol, Marvin Handler, and William B. Adams for applicant in No. MC–9115 (Sub. No. 1) and Donald A. Schafer, C. E. Holbrook, Fred C. Leibold, and Wilmer A. Hill for applicant in other proceedings.

E. L. Clumpner, F. K. Hedges, Thomas D. Jennings, John M. Hickson, Paul P. Farrens, Wm. P. Ellis, O. J. Mitchell, Albert E. Stephan, Jackson W. Kendall, Fred N. Bigelow, Hulen C. Callaway, Arthur H. Glanz, George M. Roberts, Albert A. Hampson, C. J. Young, Henry T. Ivers, Herman O. Sites, Ray H. Culbertson, and Clair W. MacLeod for protestants.

L. C. Jones, C. E. Holbrook, and Donald A. Schafer for interveners in No. MC–9115 (Sub. No. 1). Edward M. Berol, William B. Adams, L. C. Jones, I. R. Perry, and H. O. Berger for interveners in other proceedings.

REPORT OF THE COMMISSION

DIVISION 5, COMMISSIONERS MAHAFFIE, ROGERS, AND PATTERSON

BY DIVISION 5:

The application in No. MC–9115 (Sub. No. 1) was the subject of a hearing before joint board No. 5 and the other applications were the subject of one before joint board No. 11. By stipulation of the parties, part of the record in one case was made part of the record in the other. As neither joint board was able to
14 agree as to the recommendations to be made in any instance, the matters were referred to an examiner for further appropriate proceedings and the application in No. MC–9115 (Sub. No. 1) was the subject of one report and recommended order, and the other applications the subject of another. Exceptions were filed by each applicant to the other recommended in its respective case and protestants replied. The issues of these proceedings are interrelated and the applications will be disposed of in one report. Our conclusions differ from those recommended.

Pacific Southwestern Railroad Association and several motor carriers oppose the applications. Each applicant intervened in the application of the other and, in addition, The Dalles, Oreg., Chamber of Commerce, Port of The Dalles, Dallesport Development Company, and The Dalles Traffic Association intervened in support of the application in No. MC–9115 (Sub. No. 1) and The Dalles Traffic Association and the Manufacturers' Association of Washington intervened in the other applications.

Authority Sought

By applications in No. MC–42487 (Sub. Nos. 15, 18, 19, and 20), filed in January and May 1940, as amended, Consolidated Freight-

ways, Inc., hereinafter called Consolidated, of Portland, Oreg., seeks a certificate of public convenience and necessity authorizing extension of operations, in interstate or foreign commerce, as a common carrier by motor vehicle of general commodities, except liquid petroleum products, in bulk, in tank trucks, between specified points in California and Oregon, with certain limitations in service as described in appendix A attached hereto, serving off-route points which need not be described in view of our conclusions herein.

By application filed January 26, 1940, as amended, Oregon-Nevada-California Fast Freight, Inc., hereinafter called O. N. C., of San Francisco, Calif., seeks a certificate of public convenience and necessity authorizing extension of operations, in interstate or foreign commerce, as a common carrier by motor vehicle of general commodities, except articles of extraordinary value (other than ore concentrates), liquids in bulk, dangerous explosives, livestock, machinery requiring special equipment for handling, and assembled automobiles, between specified points in California, Oregon, and Washington, with certain limitations in service, as described in appendix B attached hereto, serving as off-route points Glendale, Oreg., and Camas, Vancouver, and Washougal, Wash., and certain others which need not be described in view of our conclusions herein.

Applicants' Present Service

Consolidated's corporate history and affiliations are described in Consolidated Freightways, Inc.—Lease—Mont. Transport, 25 M. C. C. 428, and the cases cited therein. In Consolidated Freight Lines, Inc., Com. Car. Application, 11 M. C. C. 131, as modified in 27 M. C. C. 697 and — M. C. C. — (Decided October 8, 1942), issuance of a certificate to Consolidated was authorized, covering operations, in interstate or foreign commerce, as a common carrier by motor vehicle of general commodities, except liquid petroleum products, in bulk, in tank trucks, in California, Oregon, Washington, Nevada, Idaho, Montana, North Dakota, and Minnesota, over regular routes, including routes between Spokane, Seattle, Tacoma, Yakima, and Vancouver, Wash., and between those points and Medford, Klamath Falls, and Lakeview, Oreg.; between Twin Falls, Idaho, and San Francisco, through Oakland, Sacramento, and Roseville, Calif., serving numerous intermediate and off-route points, with service limitations including a restriction as to transportation of commodities moving between points in California, on the one hand, and points west of Weiser, Idaho, and Ontario, Oreg., on the other; and of special commodities, over irregular routes. Consolidated's San Francisco-Twin Falls route, the only route

over which it now operates in California, connects at Twin Falls with its Twin Falls-Portland route.

O. N. C., a California corporation, is controlled through
16 entire stock ownership by three brothers, J. A., Frank M., and A. H. Gritsch. Its operations in interstate or foreign commerce, as a common carrier by motor vehicle of general commodities, with certain exceptions, in California, Nevada, and Oregon, and of special commodities in California and Oregon, are described in Oregon-Nevada-Calif. Fast Freight, Inc.—Purchase—Riley, 37 M. C. C. 233. Its principal regular routes are between San Francisco and Medford, through Sacramento and Weed, Calif., between Ashland, Oreg., and Weed, through Klamath Falls, and between Elko, Nev., and Sacramento, through Reno, Nev., serving specified intermediate and off-route points. It also has authority to engage in intrastate operations in California and Oregon over the proposed routes and recently purchased certain additional interstate operations hereinafter described.

Consolidated and O. N. C. have been interchanging freight for about 11 years at Medford and about 6 years at Klamath Falls to give joint through service between points served by each. Ninety percent of the freight is interchanged at Medford and 10 percent at Klamath Falls. Prior to July, 1939, all freight was transferred at Medford from one truck to another. Since that time about one-third of the tonnage has been handled through interchange of trailers. The facts in respect of interchange on these routes will be discussed in more detail later in this report.

In order better to understand the questions presented herein, it is necessary to review briefly certain events leading to the filing of the instant applications. In 1938 Consolidated's president sent out letters to its connecting carriers, including O. N. C., suggesting to them the formation of an association for the purpose of eliminating many of the difficulties encountered in the interchanging of freight. Thereafter an organization named "Freightways," composed of motor carriers, was formed and has been functioning since January 1940. The purpose of the organization is said to be to aid its member trucklines in cooperating in the matter of schedules and advertising, to provide them with joint soli-
17 citation, and generally to improve the handling of traffic.

O. N. C.'s president, having formed the opinion that no action on the part of Freightways could improve the then existing services, declined the invitation to become a member of the organization. About November 1939, O. N. C.'s president was advised by the president of Consolidated that he had had plenty of time to decide whether or not to join the organization, and that, if he was not willing to do so, Consolidated intended to

file an application for rights to operate into California. On January 2, 1940, Consolidated filed an application to extend its operations southward from Medford, Klamath Falls, and Lakeview to San Francisco Bay points over the routes operated by O. N. C. While the failure of O. N. C. to join Freightways influenced Consolidated in the filing of this application, its president could not say that if O. N. C. had joined Freightways, its application to extend operations to San Francisco would not have been filed. On January 26, 1940, O. N. C. filed an application to extend its operations northward from Medford and Klamath Falls to Portland over the routes operated by Consolidated. O. N. C. would not have filed its application if Consolidated had not.

In August 1940, O. N. C. and its president acquired 47 and 1 percent, respectively, of the outstanding stock of Pacific Seaboard Motor Lines, Inc., hereinafter called Seaboard, and of the remainder, 51 percent was acquired by Ernest A. Gritsch, a fourth brother, and 1 percent was acquired by the latter's wife. Seaboard was authorized, as successor in interest to certain individuals, to operate in interstate or foreign commerce as a common carrier by motor vehicle of general commodities, with certain exceptions, between Los Angeles, Calif., and Portland, over U. S. Highways 101, 199, 99, and 99E, serving the intermediate points of Eureka and San Francisco, Calif. O. N. C. and Seaboard published joint through rates, effective as of October 3, 1940, and entered into arrangements for the interchange of freight at Medford. Thereafter, the interstate rights and physical property of Seaboard were transferred to Oregon Express, a California corporation.

18 On September 21, 1940, Consolidated filed an application seeking authority under section 5 of the Interstate Commerce Act to lease (at the hearing requested authority to purchase) the operating rights and property of O. J. Mitchell, hereinafter call Mitchell, doing business as Mitchell Brothers, of Portland. Mitchell's claimed rights to operate in interstate or foreign commerce as a common carrier by motor vehicle of general commodities, over regular routes between Portland and San Francisco, serving certain intermediate points, are hereinafter discussed. On September 21, 1940, Consolidated also applied for temporary authority under section 210a (b) of the act to lease the operating rights and property of Mitchell. On October 28, 1940, Consolidated was granted temporary authority to lease these rights for a period which has since expired.

On November 20, 1940, O. N. C. filed an application seeking authority under section 5 of the act to acquire control of Oregon Express through purchase of its capital stock. By separate joint

applications concurrently filed, O. N. C. and Oregon Express also sought authority to merge the property and operating rights of the latter into the former for ownership, management, and operation.

The application of Consolidated to purchase Mitchell's rights and the applications of O. N. C. to acquire control of Oregon Express and to merge the operating rights and properties of the latter into O. N. C. have been denied. See Consolidated Freightways, Inc.—Purchase—Reymers, 36 M. C. C. 623, and Oregon.-Nev.-Calif. Fast Frt., Inc.,—Control—Oreg. Exp., 38 M. C. C. 51. The latter proceeding, however, was reopened by the Commission, division 4, for further hearing, which has been held.

Service Proposed

The main proposed routes of each applicant will be over U. S. Highway 99 to or from Portland or San Francisco. O. N. C. has requested that the portion of its application for authority to operate between Redding, Calif., and Lakeview be with-
19 drawn. This will be allowed. Consolidated's proposed service will be discussed first.

Consolidated proposes to give daily service, except on Sundays and holidays, between San Francisco Bay points and Spokane, Seattle, Portland, and Marshfield. In this connection, the following shows, as to the various routes between San Francisco and the four last-named points, the proposed and present elapsed time[2] in hours, and average driving time in miles per hour.

Schedule	*Proposed elapsed time*	*Present elapsed time*	*Driving time*
Spokane	35½	60	26
Seattle	33	55	26
Portland	25½	32	28
Marshfield	20	--	27

The proposed San Francisco-Spokane schedule will connect at Spokane with Consolidated's present service to points in northern Idaho and points east, affording shippers a 24-hour faster service. Consolidated proposes to haul loads through from San Francisco to Seattle, which would eliminate two transfers, as well as time presently involved in stopping at Oakland to load. Its freight now arrives at Portland too late to make connections for Seattle. The proposed schedule would save from 8 to 9 hours at Medford and from 13 to 15 hours at Portland. Operations over Oregon Highway 58 between Goshen, Oreg., and U. S. Highway 97, will save from 3 to 4 hours.

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[2] The term "elapsed time" as used herein means the total running time required to operate from and to any two points, and includes time necessary for stops en route for operating practices, etc.

The San Francisco-Portland schedule will provide, on northbound traffic, first-morning delivery at Ashland, Medford, and Grants Pass, Oreg., and first-afternoon delivery at Roseburg and Eugene, Oreg. Freight will arrive in Portland in time to connect with Consolidated's present service, affording second-morning delivery at Hood River, Oreg., and Yakima and Wenatchee, Wash., although these points also may be served on the Spokane schedule through Klamath Falls and Arlington, Oreg., to Kennewick,
20 Wash., where it would be transferred for Yakima and Wenatchee. Service will be improved to Grays Harbor, Wash., and points intermediate between Portland and Bellingham, Wash. On the southbound schedule, shipments could be picked up at Roseburg by 2 p. m. and delivered the next morning in San Francisco. Shipments could leave Portland in the evening and be delivered the second morning in San Francisco. On through schedules from San Francisco to Portland, stops will be made at Grants Pass, Medford, Roseburg, and Eugene, where small shipments of freight will be transferred to local schedules. The same procedure would be followed on the Seattle and Spokane schedules.

The proposed San Francisco-Marshfield schedule over U. S. Highway 101, hereinafter called the Coast Route, will afford first-afternoon delivery in Marshfield, North Bend, Coquille, and Bandon, Oreg., and first-morning delivery to points south of Bandon. Consolidated's traffic to these points presently is transported over U. S. Highway 99, hereinafter called the Valley Route, and is transferred at Medford and Roseburg, affording second-day delivery. Trucks arriving at Marshfield from San Francisco and Oakland at 2 p. m. would lay over until the evening, when they would continue on to Portland for second-morning delivery. On southbound traffic, trucks will leave Portland in the evening and arrive at Marshfield in the early morning, and depart for San Francisco about noon of the same day. Except on rare occasions, no San Francisco freight will be handled over this route from Portland.

The proposed service will enable Consolidated to render as much as 24 hours faster service to 246 points, typical of which are Wallace, Idaho, Missoula, Mont., Yakima, and Lakeview. Gold Beach and Port Orford, Oreg., will receive a day-and-a-half faster service. Roseburg, Eugene, and 66 other points will receive half a day faster service. Points in California intermediate between San Francisco and the Oregon-California State line will receive faster service on southbound traffic. One hundred and
21 seventy points will receive 24 hours faster service than is now available by any means of freight transportation.

Appendix C attached hereto is illustrative of the present and proposed delivery service of Consolidated, and the present de-

livery services of protestants, on traffic from San Francisco Bay points. The territory in the northwest to be benefited by a 24 hours faster service has a population of 1,374,254. The California territory that will also be benefited by a faster service has a population of 1,850,715. This does not include points south of San Francisco Bay area which will receive a faster service through connections at San Francisco.

O. N. C. proposes to move truck and trailer equipment to the California-Oregon State line. The trucks will carry freight destined to such southern Oregon points as Medford, Klamath Falls, Grants Pass, Coquille, and Roseburg. The trailers will carry freight destined to points north of Roseburg. It has made arrangements with connecting carriers for the interchange of freight moving beyond Portland. Traffic moving north of Portland to Seattle and Spokane will be carried in trailers which will be interchanged with the connecting carriers, thus giving through service all the way from San Francisco to Seattle and Spokane. These or four trailers will be operated daily through to Portland. One trailer will be turned over to connections at Portland for Seattle, and another for Spokane. O. N. C. does not expect the interchange at Portland to involve more delay than is presently experienced with the arrangement with Consolidated at Medford. An evening schedule will be operated northbound from Medford, to handle interstate and intrastate traffic. Another evening schedule will be operated from Portland to Klamath Falls through Goshen and Chemult, Oreg.

O. N. C. maintains terminals and pick-up equipment at San Francisco, Oakland, Sacramento, Red Bluff, Chico, Redding, Weed, and Yreka, Calif., and at Medford and Klamath
22 Falls. It proposes to establish terminals at Dunsmuir and Mount Shasta, Calif., and Grants Pass, Roseburg, Eugene, Salem, Marshfield, and Portland, Oreg. Agencies will be established at other points in Oregon through local carriers and local draymen. Sufficient equipment is already maintained by O. N. C. to institute the proposed service. Sixteen trailers are now operated as far north as Medford or Klamath Falls. North of the Oregon-California State line, tractors will be used and trailers converted into semitrailers. This will require approximately eight tractors. Five of O. N. C.'s trailers are mechanically refrigerated. It operates at least three trucks daily and sometimes six between San Francisco Bay points and Medford and Klamath Falls, and one truck daily between Sacramento and Medford.

The time in transit between San Francisco and Portland, proposed by O. N. C., will be 25 to 28 hours, and between San Francisco and the Coos Bay area 20 hours or less. It also proposes

to institute a morning schedule out of San Francisco and a similar schedule from Portland south-bound, with time in transit about the same as the evening schedules. A daily schedule will be operated between Klamath Falls and Portland through Goshen and Chemult. No change is contemplated in the schedules or speed of operation between San Francisco Bay points and Medford or Klamath Falls.

O. N. C.'s north-bound arrival time at Klamath Falls is from 6 a. m. to 10 a. m. It proposes to operate truck and trailer combinations as far as Klamath Falls, where the trailer will be detached and converted into a semitrailer, which will go on northward. While the route through Klamath Falls will be faster than the Medford route, second-morning delivery will be made in Portland on traffic moving over both routes. There will be trailers operated through to Portland which will contain less-than-truckload shipments. No service will be rendered Grants Pass, Roseburg, or Salem on through schedules. These points will be served on another schedule out of San Francisco which will be slower than the through schedules. An elapsed time of
23 from 26 to 30 hours is presently maintained by O. N. C. and Seaboard on their joint service between Portland and San Francisco. The present arrangement with Seaboard will not give the service proposed because Seaboard cannot serve the intermediate points from Grants Pass to Portland, nor can it serve the coast territory.

Shipper Witnesses

Approximately 120 shipper witnesses were called by one or the other of the applicants, although some few testified in behalf of both applicants. Sixteen shipper witnesses testified for protestants. Those opposed gave testimony concerning the adequacy of the existing services over U. S. Highway 99 and also to the Coos Bay area. In this respect, it is noted that only one protestant called shipper witnesses and that the other protestants point out in their brief that they deemed it unnecessary to call shipper witnesses for the purpose of showing affirmatively that the present services of the truck operators serving the territory are adequate to meet public needs.

Applicants' shipper witnesses, as a whole, are engaged in shipping or receiving general commodities at numerous points in California, Oregon, and Washington, and at some few points in Idaho. But the value of most of the shipper testimony is difficult to appraise. In finally deciding the questions presented herein, applicants' cases rest on (1) their proposed speed-up of service, (2) their use of mechanically refrigerated equipment,

(3) their service to intermediate points, (4) their proposed single-line service as against joint-line service, and (5) in respect of Consolidated, its proposed through operations between San Francisco and points in eastern Oregon and Washington, between the Coos Bay area and San Francisco over the Coast Route, and to and from Lakeview. Each one of these will be discussed separately, but before so doing, the present service of protestants will be considered as well as certain of their contentions in respect of the proposed service.

24 Protestants' Service

At the time of the hearing, in addition to the joint service of O. N. C. and Consolidated, there were operating over U. S. Highway 99 between San Francisco and Portland the following motor carriers: Los Angeles-Seattle Motor Express, Inc., Colletti Fast Freight, Cascade Fast Freight, Pierce Auto Freight Lines, Inc., O. J. Mitchell, Pete Lubetich, and Pacific Truck Express, hereinafter respectively called L. A. S., Colletti, Cascade, Pierce, Mitchell, Lubetich, and P. T. E. L. A. S. now operates as a common carrier of general commodities, with certain exceptions, over U. S. Highway 99 between Seattle and Los Angeles, Calif., through Sacramento and Fresno, and also between Seattle and San Francisco over U. S. Highways 99 and 40, and of specified commodities from or to certain points or territory in California, Oregon, and Washington. In Los Angeles-Seattle M. Exp., Inc., Com. Car. Application, 24 M. C. C. 141, and 26 M. C. C. 645, L. A. S. was denied "grandfather" rights to serve San Francisco. However, in Los Angeles-Seattle Motor Exp., Inc., Extension, 29 M. C. C. 81, which proceeding was pending at the time of these hearings, public convenience and necessity were found to require operation by L. A. S. from and to San Francisco and certain other intermediate and off-route points. Briefly, L. A. S. does not have authority to transport general commodities from or to any intermediate points in Oregon except Portland, Salem, Eugene, Roseburg, and Medford. Nor does it have authority to render service between Oregon points, on the one hand, and points in Washington, on the other. It does have authority, however, to transport shipments of 10,000 pounds or more of commodities requiring refrigeration from and to all intermediate points in California and Oregon, and to pick up shipments of fresh, frozen, or processed fish at Reedsport, North Bend, and Marshfield, Oreg. Terminals are maintained at Seattle, Portland, San Francisco, Oakland, and Los Angeles, and it has agents at Medford, Salem, Eugene, and Sacramento. The
25 agents at San Francisco, Oakland, and Portland perform its pick-up and delivery services. It operates 20 trucks, 20

trailers, and 20 tractors. Occasionally it is necessary for it to run empty equipment southbound to take care of the northbound movements. Its tonnage out of San Francisco does not equal that handled jointly by Consolidated and O. N. C. Although the actual tonnage handled by L. A. S. from San Francisco is not given, traffic moving between San Francisco and all points in Oregon and Washington amounts to approximately 25 percent of its total traffic. Its gross-revenues have increased from over $128,000 for 1937 to over $322,000 for 1939, and the business has been increasing since the latter date.

L. A. S. has three or four trucks that leave Seattle daily from 6 p. m. until midnight, destined for the San Francisco Bay area and Los Angeles. Some of its trucks are turned around at San Francisco, and the overflow of traffic which it cannot handle on its regular schedules is picked up by its trucks coming through from Los Angeles. Space is left on these trucks for such tonnage. Its trucks leaving San Francisco by noon give second-morning delivery at Spokane by connecting carriers leaving Portland by 5 p. m. Trucks leaving later than noon from San Francisco give third-morning delivery at Spokane. About 30,000 pounds of freight is interchanged daily at Portland for Spokane, but there is nothing to indicate which portion of this amount originates at San Francisco. The running time from Seattle to San Francisco is 36 hours, affording second-morning delivery, and 48 hours to Los Angeles, affording third-morning delivery.

L. A. S. uses dry ice and crushed ice for refrigeration. It favors this type of refrigeration to that of mechanical refrigeration because of the different classes of commodities that are transported in the same vehicle which require different temperatures. It also uses truck and tractor combinations instead of semitrailers, so that fish can be segregated from other freight, and further, for the purpose of handling larger pay loads. This carrier is not particularly interested in handling farm produce.

26 At the time of the hearing, Colletti was engaged in the transportation of general commodities, with certain exceptions, between Los Angeles and Seattle, over U. S. Highway 99, serving certain intermediate and off-route points. Before the hearing was concluded, its application for rights under the "grandfather" clause of the act was denied by us in Knopp Broker Application, 23 M. C. C. 727; Colletti filed a petition for reconsideration which was granted; and he also filed an application under section 207 (a) of the act for authority to serve practically the same points as those sought in his "grandfather" application. Each of these applications has been finally determined. Upon reconsideration, the prior findings in 23 M. C. C. 727, that because of an interruption in service within his control Colletti had failed to

establish "grandfather" rights, was affirmed in Colletti Common Carrier Application, 32 M. C. C. 463. Shortly thereafter, in Colletti Extension of Operations, 32 M. C. C. 363, we found that public convenience and necessity required certain operations by Colletti as a common carrier by motor vehicle and pursuant thereto a certificate was issued on April 17, 1942. This protestant's rights to serve San Francisco are restricted to the transportation of dairy products, poultry, and fresh, frozen, or canned fruits, vegetables, and fish from specified Oregon and Washington points, but not including Portland or any other Oregon point on U. S. Highway 99, in shipments weighing not less than 5,000 pounds each from any one consignor. He does have authority, however, to transport general commodities, with certain exceptions, between Seattle and Los Angeles, serving certain intermediate and off-route points, including Fresno, Sacramento, and Modesto, Calif., and Portland, Medford, Grants Pass, Rosebu.g, Eugene, and Salem.

Colletti's road equipment consists of five trucks, five trailers, one tractor, and one semitrailer, owned, and two trucks and two tractors leased. He operates pick-up trucks in Los Angeles and Seattle. His vehicles are equipped with the latest
27 type of insulation. He uses dry ice for refrigeration and the only claims that arise are from insufficient use of ice. He handles a considerable amount of nonperishable commodities that move with frozen commodities where it is necessary only to refrigerate a part of the load. Less than 1 percent of his northbound movements, and only 65 percent of the southbound movements, require refrigeration. He is planning, for the purpose of determining operating costs, the operation of one unit equipped with mechanical refrigeration. The use of this equipment was suggested by some shippers as an experiment in bringing the temperature down to meet that of the cold-storage houses. Since the frozen fruit and vegetable industry has spread out in the northwest, it is necessary for Colletti to make pick-ups at three or four points in order to complete a load.

Colletti's schedules leave Los Angeles daily between 7 p. m. and 9 p. m., and arrive at Seattle in time for third-morning delivery. Second-afternoon delivery is made about one-third of the time. Freight out of San Francisco is delivered to him at Fresno and Modesto, affording second-afternoon delivery in Portland, and third-morning delivery in Seattle. Freight from Seattle is delivered the second morning in San Francisco. During the period from June 1938 to July 1939, he handled 161,667 pounds of freight, or approximately 3 percent of his total tonnage, between San Francisco Bay points of San Francisco, Sacramento, Oakland, etc., and northwestern points. From July 1939 to July 1940, the tonnage from these points increased to 758,508 pounds, but apparently never

exceeded 10 percent of the total tonnage. He has arrangements which enable him to drop off freight at intermediate points during all hours of the day and night. As stated, Colletti has very limited operating rights to San Francisco and none from that point.

Cascade is engaged in the transportation of general commodities between Portland and Los Angeles, over the Valley Route through Stockton and Fresno, and serves Oakland and San Fran-
28 cisco as off-route points, pursuant to a pending "grandfather" application. It operates eight trucks and eight trailers. Ninety percent of its equipment has insulated bodies and it carries refrigerated commodities on southbound movements. Wet and dry ice is used for refrigeration. Whenever it has shipments of rush freight or perishables, it operates directly into San Francisco. At other times, the San Francisco freight is interchanged with connecting carriers at Stockton in order to escape expensive bridge tolls. Its south-bound tonnage is much lighter than its north-bound movements. Of Cascade's total revenue between January and August 1940, 87.4 percent was received from shipments moving to or from Los Angeles, and 11.7 percent from shipments moving between San Francisco and Portland. Cascade's schedules to San Francisco and Oakland are never less than five a week. It has never refused any freight because of the inability to handle it, and it has always had plenty of equipment available for use when needed. Its president stated that upon receipt of six new pieces of equipment then on order, a daily service would be instituted between San Francisco Bay points and Portland; and that he expected the running time to be reduced by 12 hours. These new units will be equipped with the latest type of refrigeration and Cascade has been assured by shippers that they will support this service. Since the hearings herein, the Commission, division 4, has approved and authorized the merger into System Freight Service of the operating rights and properties of Cascade. See System Freight Service-Merger, 36 M. C. C. 601.

Pierce is another protestant whose rights have been determined since the hearing herein. On April 25, 1942, Pierce was issued a certificate as a common carrier by motor vehicle of general commodities, with certain exceptions, between Portland and San Francisco, over the Valley Route, serving all intermediate points, pursuant to the findings in Pierce Auto Freight Lines, Inc., Com. Car.
Application, 30 M. C. C. 629. It maintains joint rates with
29 carriers operating beyond Portland and south of San Francisco. From 1929 to 1935 a daily schedule was rendered between Portland and points in southern Oregon. In 1935 a daily service was instituted between Portland and San Francisco, at which time the load factor was 80 percent south-bound and 20 percent north-bound. Although it maintained joint rates with

O. N. C., due to close working arrangements between Consolidated and O. N. C., it received very little freight. Its services south of Medford were discontinued for approximately 1 year beginning in March 1938. In 1939 it again commenced operation south of Medford, rendering a weekly service between Medford and San Francisco. Since shortly prior to the hearing herein, Pierce has rendered a daily service between Portland and San Francisco.

Due to the resumption of a daily service, Pierce has built up a small tonnage. During July 1940 the volume of freight out of San Francisco amounted to 7 or 8 tons per day, which included 3 or 4 tons that it received from connecting carriers. It maintains several local schedules between Portland and Medford. Departures from Medford north are regulated to give second-afternoon service in Grants Pass from San Francisco. It does not handle a sufficient amount of tonnage to justify the operation of through unit between Portland and San Francisco without stops.

Pierce owns one trailer equipped with mechanical refrigeration which is available for use between Portland and San Francisco when commodities require it. It has had no demand for mechanical refrigeration. It uses wet and dry ice and has found it satisfactory and practical. It maintains terminals at Portland, Eugene, Roseburg, Grants Pass, and Medford, and has agents at all intermediate points where the tonnage justifies it. It has arranged with connections at Portland for interchange of equipment whenever the volume of tonnage is sufficient. This carrier's schedule from San Francisco arrives at Portland about 6 a. m. or 7 a. m., affording second-morning delivery, and leaves for Spokane in the evening, affording third-morning delivery. Third-morning delivery is accorded all points north of Portland. This carrier has experienced little difficulty in the interchange of freight.

At the hearings a request was made that we take into consideration, in determining the issues in these proceedings, the operations of Mitchell and Lubetich and the fact that each had an application which had been heard and not finally determined at the time of the hearings herein.

In Mitchell Common Carrier Application, 33 M. C. C. 683, we found that Mitchell had failed to establish any rights under the "grandfather" clause of the act and denied the application, the effective date of which has been postponed. Mitchell has filed a petition for reconsideration.

Lubetich's claim of rights under the "grandfather" clause of the act was denied in Los Angeles-Seattle M. Exp., Inc., Com. Car. Application, supra. However, on August 15, 1941, Lubetich was issued a certificate as a common carrier by motor vehicle of "commodities requiring refrigeration," between Seattle and Los

Angeles, serving certain intermediate points, including Portland, Medford, Sacramento, Stockton, and San Francisco, pursuant to the findings in Lubetich Extension of Operations, 29 M. C. C. 669. On November 25, 1941, this certificate was transferred to Pacific Coast Motor Freight. There is nothing of record to show the details of the service rendered by either Lubetich or Mitchell.

For some time prior to the hearings herein, P. T. E. was operating daily as a common carrier by motor vehicle of general commodities, with certain exceptions, between Portland and San Francisco over U. S. Highway 99 under appropriate authority. Just prior to the hearings herein, the Pacific Motor Trucking Company, which in turn is controlled by the Southern Pacific Company, acquired control of P. T. E. by purchase of its capital stock. This purchase was approved in Pacific Motor Trucking Co.—Control—Pacific Truck Exp., 35 M. C. C. 353.

31 Southern Pacific Company, hereinafter called S. P., will use the services of P. T. E. to its best advantage in performing a coordinated service. The counsel for S. P. stated for the record that while it is not the intention of S. P. to continue through truck service by P. T. E. between Portland and San Francisco, P. T. E. will continue such operations as will fully protect its rights in Oregon and California, and that a study is being made to determine the best method of operation. From the foregoing it is evident that P. T. E. is no longer operating as a through motor carrier between San Francisco and points in Oregon.

Rail lines closely parallel all lines of the proposed operations. S. P. operates overnight merchandise trains (1) from San Francisco, Oakland, and Sacramento to Asland, Medford, and Grants Pass; (2) from Portland to Roseburg, Grants Pass, and Ashland, and intermediate points, and one schedule northbound; (3) from Portland to Klamath Falls; and (4) from Portland to Reedsport, Marshfield, and intermediate points, and also in the reverse direction. The Northwestern Pacific Railroad Company operates similar schedules both northbound and southbound between the San Francisco Bay area and Eureka. S. P. also offers expedited service by its subsidiaries, Pacific Motor Truck Company, hereinafter called Trucking, and P. T. E., whose services coordinate with those of the rails, affording service to smaller communities in California and Oregon.

S. P. is now offering first-morning delivery at Medford from San Francisco Bay points, and first-day delivery as far north as Roseburg, and second-morning delivery at Coquille, Marshfield, and North Bend. It also offers second-day service at Lakeview, Salem, and Portland, and third-morning service at Tacoma

and Seattle. From Portland southbound, it offers first-morning service at Medford, Klamath Falls, and Marshfield, and second-day service at Lakeview and Sacramento, and third-day service at San Francisco Bay points.

Northwestern Pacific Railroad Company operates an overnight service from San Francisco to Eureka, has joint rates
32 with Butler Freight Lines to Crescent City, where the latter connects with Central Transfer Company, and gives second-day services to Marshfield; also second-day service in the reverse direction. S. P. provides a daily less-than-carload refrigerated service from Oakland to Portland, and a similar service on Mondays and Fridays from San Francisco to Portland and Seattle. An additional day is required on similar services to Spokane and Wenatchee.

Railway Express Agency, Incorporated, in connection with rail service, furnishes pick-up and delivery services at all points in the territory involved, except at Lakeview. The charge for this service is included in the line-haul rate. It furnishes an ice helper to reice seafood with crushed and chipped ice enroute, which means of refrigeration has proven satisfactory. At San Francisco, deliveries of seafoods and other commodities are made on Sundays to all consignees that remain open.

In addition to the through carriers, several carriers operating in part over the routes in question also presented evidence as to their operation. Most of these protestants are operating over some portion of the Coast Route.

Medford-Crescent City Truck Lines has been authorized, insofar as here pertinent, to transport general commodities, with certain exceptions, between Medford and Crescent City over U. S. Highways 99 and 199, including service at all intermediate and certain off-route points. Daily service is rendered between Grants Pass and Crescent City and a weekly one between Medford and Crescent City. Connections are made with Consolidated at Grants Pass. During the first 6 months of 1940 the equipment was operated westbound between Grants Pass and Crescent City at about 53 percent of load capacity. Joint through rates are maintained with Consolidated between Eureka and Crescent City, on the one hand, and points in Oregon, Washington, and Montana, on the other. This protestant's principal objection to the applica-
tion is in respect of Consolidated proposed services over
33 U. S. Highway 101 south of Coquille.

Central Transfer Company is authorized to transport general commodities, with certain exceptions, between Marshfield and Crescent City, over U. S. Highway 101. A daily service is rendered between these points and additional schedules are oper-

ated to and from intermediate points. Connections are made with P. T. E. and Consolidated on traffic destined to points south of Coquille. Connections also are made at Crescent City with Butler Freight Service, Northwestern Pacific Railroad Company, K & L Truck Lines, and Medford-Crescent City Truck Line. These carriers are dependent upon Central Transfer for local service between Marshfield and Crescent City. Little revenue is obtained from the service between Gold Beach and Crescent City. During 1939 operations were conducted at a loss of $3,719.25. This protestant does not believe Consolidated's proposed 20-hour schedule over the Coast Route is practical.

C. E. Kamph is engaged in the transportation of livestock between Coos and Curry Counties, Oreg., on the one hand, and San Francisco, Palo Alto, and points in Del Norte, Humboldt, Marin, and Mendocino Counties, Calif., on the other, and of machinery, forest products, agricultural commodities, and emigrant movables between points in Coos, Curry, Jackson, Josephine, and Klamath Counties, Oreg., and Del Norte, Humboldt, and Siskiyou Counties, Calif., over irregular routes. He operates one truck, one trailer, one tractor, one semitrailer, and one solo truck. He has been able to handle all of the tonnage that originated in the territory he serves, and is able and willing to take care of additional tonnage. He has been driving a truck for the past 5 years over the Coast Route between Oregon points and San Francisco. He stated that the highway was narrow, crooked, and mountainous, and that there were places where it is necessary to stop to allow cars proceeding in the opposite direction to pass.

Intercity Transport Lines is a "California express cor-
34 poration" operating between Watsonville and San Jose, Calif., on the south, and Crescent City, on the north, including points east of Eureka. It operates no equipment of its own, but uses the services of certain "underlying carriers." Its "grandfather" application is pending before this Commission. It uses the service of Redwood Motor Freight Lines between San Francisco and Garberville, Calif.; Eureka-Garberville Truck Line between Garberville and Eureka; and Butler Freight Service between Eureka and Crescent City. It publishes joint rates with Central Transfer Company as far north as North Bend. Freight leaving San Francisco between 7 p. m. and 8 p. m. is delivered in Marshfield the second afternoon or third morning. Freight is transferred at Eureka and Crescent City. Joint rates were first published effective during the hearings herein and its volume of freight has increased materially since such rates were published. This carrier has never handled any dairy products from Coos Bay area, however, although the principal products of that area

consist of dairy products. Its principal competitor is Transcontinental Common Carriers (formerly Transcontinental Contract Carriers), hereinafter called Transcontinental.

At the time of the hearing, Transcontinental held a permit as a contract carrier of dairy products from North Bend, Marshfield, Coquille, Bandon, and Langlois, Oreg., to San Francisco and Oakland over U. S. Highway 101. It also was authorized to operate northbound as a common carrier of canned goods, groceries, paraffin, salt, fresh fruits, and vegetables from Oakland and San Francisco to North Bend and intermediate Oregon points over U. S. Highway 101, with service at the off-route points of Norway and Myrtle Point, Oreg. In No. MC–100908 (Sub. No. 1), Transcontinental Contract Carriers Additional Commodities, — M. C. C. —, decided January 7, 1942, we found that public convenience and necessity required operation by Transcontinental as a common carrier by motor vehicle of general commodities, with certain exceptions, between Oakland and North Bend over U. S. Highway 101, serving numerous intermediate and off-route
35 points, with certain restrictions. On March 16, 1942, O. N. C. was granted temporary authority under section 210a (b) for a period expiring September 11, 1942, to operate the motor carrier properties of Transcontinental; the purchase by O. N. C. of the operating rights and property of Transcontinental has been approved and authorized—(see No. MC–F–1790, Oregon-Nevada-California Fast Freight, Inc.—Purchase—S. H. Petersen and John Paulsen, — M. C. C. —, decided September 5, 1942); and a certificate has been issued to O. N. C. covering the operations so purchased.

Butler Freight Service is authorized to operate as a common carrier of general commodities between Crescent City and Eureka, over U. S. Highway 101, including service at intermediate points. It has joint through rates with Consolidated and Pierce on southbound freight out of Portland. Its equipment is not operating at full capacity and it has not handled much perishable freight. No refrigerated equipment is operated by him. He has had no claims on account of spoilage of freight, nor has it had a demand for mechanically refrigerated equipment. This carrier is now handling fresh meat and other perishables between San Francisco and Crescent City. Dry ice is used but it is willing to provide mechanical refrigeration upon demand from shippers. Through traffic between San Francisco and Marshfield areas comprises only a small portion of its business.

The Moore Steamship Company operates two boats between San Francisco and Coos Bay and Coquille River in Oregon. Its average tonnage is not over 20 percent of boat load capacity. Since 1936 its Coos Bay tonnage has decreased 60 percent. Its north-

bound tonnage is very small. Its south-bound tonnage consists principally of lumber out of Bandon; it has no refrigerating equipment; and its sailings are dependent upon the lumber market as its operations are primarily for the lumber mills.

Pacific Highway Transport holds rights to transport gen-
36 eral commodities between Portland and Bellingham, and between certain other points in Oregon and Washington. It handles California freight through interchange connections at Portland, and it has solicitors at various points in western Washington who solicit freight for and from California points. Its south-bound tonnage interchanged at Portland runs from 500 pounds to 2 tons daily, and its north-bound tonnage averages about 5 tons daily. This carrier interchanges California freight with L. A. S. for points north of Seattle and as far south as Chehalis, Wash. It encounters stiff competition with this carrier. Its tonnage has not been sufficient to permit interchange of trailers, but it is willing to do so when the tonnage justifies it. It has had no complaints from shippers about delays at interchange points.

Bekins Van Lines, Inc., opposes Consolidated's request to transport household goods. This protestant and several other household goods carriers are engaged in transporting household goods between numerous points in Oregon, Washington, and California. Bekins has 30 tractors and 70 semi-trailers engaged in transporting household goods exclusively; is able to provide additional equipment; and averages five loads a week between Portland and San Francisco and intermediate points through Medford and Klamath Falls. Its average load factor between Oregon and California points is 6,250 pounds, although its equipment is capable of handling 8,400 pounds.

Public Convenience and Necessity

A professor of economics at the University of California, when asked his opinion of the benefits which the public can reasonably be expected to enjoy through the proposal of applicants to render a 24-hour faster service than that existing, stated that the element of time is important (1) in the movement of perishable commodities; (2) in the handling of special orders; (3) in affording merchants, wholesalers, and producers an opportunity to meet on short notice
unpredictable short-run demands; (4) in meeting out-of-
37 stock conditions; (5) in determining the size of a purchase order; and (6) in determining the place of purchase. He further expressed the opinion that producers and wholesale distributors would be able to adjust themselves more effectively to changes in market demands, market supplies, and prices between markets; that they would be able to choose between a wider number

of markets on those items where time is important; and that consumers would have access to commodities that otherwise would not be available. He conceded, however, that disruption of the finances of a transportation company, causing collapse, is also very damaging to the public; and that if the change would break down schedules and cause a collapse in existing transportation facilities, that would be very important to consider in determining public convenience and necessity.

Proposed speed-up of service.—The proposed faster service has been discussed hereinbefore in some detail. Briefly, the proposal is to save as much as 24 hours in service between San Francisco and certain points. Protestants contend that applicants cannot maintain the proposed schedules between San Francisco and Portland, and, in respect of the proposed operations of Consolidated, between San Francisco and Marshfield over the Coast Route. Operations over the latter route will be discussed later in this report.

Pierce's president-manager is of the opinion that the proposed 25-hour service between Portland and San Francisco could not be conducted with safety. The elapsed time (see footnote 2) of Pierce's trucks between these points is from 32 to 38 hours. The total driving time is between 23 and 30 hours, and the total operating time between 26 and 32 hours. There are 59 intermediate towns that require a reduced speed, and stops have to be made at division points, eating points, and refueling points, and for tire failures and rechecking of equipment. A reduction in speed is also required during foggy weather, and in the Sacramento Valley during hot weather, and when encountering snow and ice in mountains.

38 Consolidated does not propose to operate between Medford and San Francisco faster than O. N. C. now operates between those points nor does O. N. C. propose to operate between Medford and Portland faster than Consolidated. Consolidated's equipment has mechanical governors to preclude a speed over 45 miles an hour. The O. N. C. drivers are required to pay their own fines and O. N. C.'s president stated that he knew of none of the drivers recently being arrested for speeding. There is no evidence that either applicant violates the speed limits of the respective States in or through which they operate.

Elapsed time of from 28 to 30 hours is presently maintained by O. N. C. and Seaboard on their joint service between Portland and San Francisco, over U. S. Highways 101, 199, and 99, which route is longer than the Valley Route. The trucks of L. A. S. leaving San Francisco by noon arrive at Portland in time to connect with carriers leaving Portland by 5 p. m. the next day. This would give a total elapsed time of less than 29 hours. Consolidated maintains a comparable speed between Billings, Mont., and Seattle where weather and traffic conditions are more severe.

We conclude that applicants should be given the benefits of whatever doubts may exist as to their ability to maintain the proposed time[3] schedules. If the proposed speed-up of service is practical for applicants, it also is feasible for other carriers competently managed. Although added competition may force them to do it, none of the protestants proposes a like service.

Numerous public witnesses expressed a need for a service that would be time-saving. Some of them asserted that it would increase their business. One in particular is interested in the proposal of Consolidated to improve service between Seattle and intermediate points in Oregon south of Portland. At the present time, this traffic moves from Seattle to Portland one night, lays
39 over at Portland until evening, and then moves to destination the next. The proposal is to render overnight service from Seattle as far south as Eugene and first-noon service to Klamath Falls. There is no such service now available. Although all of these points are now served by Consolidated, it contends that it cannot afford such a schedule without the overhead traffic to and from California.

Mechanical refrigeration.—The production of frozen fruits and vegetables in Oregon and Washington increased from almost 39,000,000 pounds in 1933 to over 79,000,000 pounds in 1939. This traffic requires refrigeration and normally moves south-bound. Both applicants look to this traffic to help balance the proposed operations, as, at the time of hearing, the north-bound movement of traffic was much heavier than that south-bound although the volume of south-bound traffic was increasing.

Certain of the shippers prefer mechanical refrigeration because it can be controlled and is more satisfactory; some few complain that the equipment of certain protestants is not properly refrigerated; and at least one shipper has had to abandon attempts to make small shipments requiring refrigeration. Certain commodities cannot be exposed to dry ice. For example, lettuce, if exposed to dry ice, takes on a musty odor after it has been out of refrigeration for some time; flowers cannot be shipped with dry ice as it pulls too much moisture from them; and fresh meats cannot be handled with dry ice. On the other hand, even with mechanical refrigeration, fish would still have to be packed with wet ice. Also, one of protestants' shipper witnesses is of the opinion that mechanical refrigeration is not necessary. He ships poultry from Medford to Oakland and uses his own equipment with dry ice. This witness, however, had used no truck service for over 6 months prior to these hearings.

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[3] We are cognizant of the fact that there now is in effect a 35-mile speed limit which will increase the driving time, but this speed limit affects all schedules.

About July 1939 Consolidated inaugurated a refrigerated service with thermostatically controlled units. Although it has been building refrigerated equipment at the rate of four or five a month, it has not been able to meet the demands for refrigerated
40 service by shippers of frozen fruits and vegetables. So far as this record shows, the two applicants herein are the only ones providing mechanical refrigeration, except for Pierce, which has one unit so equipped. Applicants operate through refrigerated service between Portland and San Francisco but do not afford through service to any intermediate point. As stated, Colletti was planning to equip one unit with mechanical refrigeration in accordance with the suggestions of some of his customers, and Cascade also was planning to offer service with six units with mechanical refrigeration. L. A. S. does not desire to use mechanical refrigeration because the weight of the refrigerating unit (approximately 1,500 pounds) would be a "dead loss on the northbound movement" and, even as to the south-bound movement, is substantially heavier than dry ice. Another protestant, however, admits that mechanical refrigeration is a more full and complete method of refrigeration than either wet or dry ice.

Commodities which do not require, and would not be injured by, refrigeration are carried in the same equipment with commodities which do require refrigeration. With dry ice, the cold is localized by use of thermos quilts; with mechanical refrigeration, the cold is controlled by the use of interior doors. Where moisture in the air is necessary, a barrel of water is placed in the vehicle using mechanical refrigeration and fresh fruit is carried regularly in this manner.

Intermediate points.—As seen, the authority held by most protestants to serve intermediate points is restricted. Some of the witnesses complain of the lack of service rendered by protestants to intermediate points. Even as to Pierce, which holds the right to serve all intermediate points on its routes, some of the witnesses were not familiar with the fact that this protestant was offering a daily service. In this connection, however, it should be noted that Pierce increased its service to San Francisco from a weekly to a daily one shortly prior to these hearings.

41 In August 1940 L. A. S. had no traffic to or from Grants Pass, Oreg., or any other point in Oregon south of Eugene. During that month it grossed over $33,200, of which $30.01 represented hauls between San Francisco and Eugene, and $30.89 between San Francisco and Salem. L. A. S. is listed in the telephone directory of Seattle, Tacoma, Portland, San Francisco, and Los Angeles but not at any other Oregon or California points on the routes involved. Colletti is listed in the telephone directory of Seattle, Portland, Oakland, and Los Angeles. Less than 1 percent

of Cascade's traffic moves between San Francisco and points in Oregon south of Portland. This carrier has no telephone listings in any intermediate point between San Francisco and Portland.

The consulting rate and traffic expert of the Manufacturers Association of Washington concludes that there are two particular classes of service in existence from Washington to the San Francisco Bay area. One is composed of those carriers whose principal south-bound freight consists of fish and other refrigerated products extending their service principally to the terminals in California. The other is composed of Carriers which handle general freight through connections at Portland and at Medford. Generally speaking, he asserted that carriers in the first group take other freight as incidental to their regular line of freight and those in the second group take the northern California freight to the Bay district as more or less incidental to their local and other freight. The members of the association favor the proposed service and believe that such a service is needed because it will be a daily service with attention paid directly to traffic not only into the terminals but also to intermediate points both large and small; will reduce time in transit by 24 hours; and will substantially improve service that the members now have.

Through service.—As stated, O. N. C. and Consolidated have
interchanged freight at Medford for over 11 years and at
42 Klamath Falls for over 6 years to give joint through service
between points served by each. Since July 1939 about one-third of the tonnage has been handled through interchange of trailers. At first, the amount of interchange traffic was small and Consolidated's principal business was of a local nature to and from Medford. Apparently, O. N. C.'s principal business also was local. The interchange business has since increased until it far exceeds that of the local business. At the time of the hearing, a daily average north-bound tonnage of approximately 110,000 pounds of California freight was being interchanged at Medford. North-bound tonnage increased from 745,795 pounds in January 1938 to 2,523,195 pounds in May 1940, an increase of over 200 percent. South-bound tonnage increased from an estimated 251,162 pounds in January 1938 to 1,370,380 pounds for May 1940, an increase of over 400 percent. Consolidated's president believes that in the event its application is granted this tonnage would be split equally. O. N. C.'s president expressed the belief that ompany would retain 65 percent of the north-bound tonnage and that Consolidated would retain 65 to 70 percent of the south-bound tonnage.

Both applicants and protestants introduced evidence pertaining to the alleged advantages and disadvantages of the joint service. Much of it is argumentative. Apparently the contentions may be summed up by stating that it is protestants' position that the source

of these proceedings lies in the refusal of O. N. C. to join Freightways and that the objectionable features claimed to result from the interchange are within the power of these two applicants to correct; while it is applicants' position that these proceedings arose from a desire on their part to give a better service.

We have heretofore discussed the events in respect of the filing of these applications. The following is with respect to the actual practices at the points of interchange. In this connection it is noted that near the conclusion of these hearings O. N. C. apparently began favoring the predecessor of Oregon express with the
43 traffic interchanged at Medford. It is further noted that the Commission, division 4, in Consolidated Freightways, Inc.—Purchase—Reymers, supra, stated at page 630:

"Fast Freight [O. N. C.] has diverted much of its traffic formerly interchanged with applicant [Consolidated] to a competitor [Oregon Express] of the latter at Medford, reducing the daily freight interchanged with applicant." [Footnote omitted.]

Consolidated's policy is to use a truck and trailer combination, whereas O. N. C.'s theory of proper equipment is the use of six-wheel trucks and trailers in California and a tractor and semitrailer combination in Oregon. Due to a difference in the weight restrictions in Oregon and California, O. N. C. can carry 11 tons of freight on a trailer in California, but has to take off 3½ tons when it reaches Oregon. At present, through equipment is loaded for Portland, Seattle, and Tacoma only. They contain no local freight from or to Medford. Under the present arrangement for interchange of equipment, O. N. C. dispatches a tractor from Medford to the Oregon-California State line, where the trailer is converted into a semitrailer and hauled to Medford. At Medford, Consolidated uses a different motive power and reconverts it into a trailer for the trip between Medford and Portland, O. N. C. does not interchange full loads of freight at any points other than Medford, and therefore does not have any interchanges where the delay is as great as at Medford.

A full truck or trailer load takes about an hour and a half to unload, and an hour to check. The elapsed time encountered by Consolidated and O. N. C. in rehandling freight at Medford averages 4 hours. Since through trailer service has been inaugurated, it saves some rehandling at Medford but the major portion of the tonnage is transferred. An increase in through traffic between San Francisco Bay points and points in Oregon and Washington has caused O. N. C. to participate in joint rates with other carriers which serve Medford.

44 There is no other interchange point that compares with Medford in the amount of tonnage handled. From 200 to 600 shipments of freight per day move through Medford. North-

bound traffic mostly moves in less-than-truckload lots. The average number of through trailers is two per day. No trouble is experienced with trailer loads on south-bound movements. Where freight for intermediate points is included with freight in through trailers, it usually causes a delay of from 2 to 3 days in making delivery. The use of through trailers means only a saving in handling costs. Such use does not, except in rare instances, get the freight to the destination point any sooner than if the freight were transferred at Medford. Elimination of the cost of transfer of lading at Medford would save approximately fifteen or sixteen hundred dollars a month. About 85 percent of the freight has to be transferred once at Medford, and over 40 percent again at Portland or Roseburg or other points. Misrouting of shipments occurs and causes considerable dissatisfaction among shippers.

Through billing is in existence from San Francisco on north-bound traffic only. Shipments from all other points have to be rebilled at Medford. O. N. C.'s president expressed the belief that because of delays in transfer including rebilling and checking, and the handling of a number of pieces of property belonging to different consignors or consignees, an arrangement for the equipment of one carrier to be ready and available to transfer the lading and immediately move on would not be as practical as the operation of through equipment by one carrier. He is of the opinion that rebilling causes only a small part of the delay, most of which he believes is due to interchange of lading; that O. N. C. will be better off financially if the requested certificate is granted, notwithstanding the possible split of the available tonnage: that the delay at Medford could be reduced by one-third by efficient operation of both applicants; and that the joint service could not be improved sufficiently to give service equal to that which is proposed herein.

Consolidated wants all of its freight destined, for example, to Spokane, Yakima, and Wenatchee, Wash., loaded in one piece of equipment, so that when it reaches Medford it will all be together for checking and can be loaded right through from Medford to destination. This method of operation is not satisfactory to O. N. C. as it delays O. N. C. in San Francisco because it has to hold the trucks until the last pick-ups are delivered at its terminal, which is between 7 and 8 p. m. O. N. C.'s trucks arrive at Medford anywhere from 6 a. m. to 3 p. m., depending on the time of departure, and its trailers arrive anywhere from 1 to 7 hours after the trucks. Freight on O. N. C.'s last schedule and on some schedules departing shortly before is not segregated as to destination. Consolidated's trucks arrive at Medford between 7 a. m. and 11:30 a. m. The trucks of O. N. C. depart from Medford between 12 noon and 6 p. m. Consolidated's trucks leave Medford from 6 to

10 p. m. In some instances, freight arriving at Medford from either San Francisco or Portland on the earliest schedule might not be transported to its northern or southern destination, as the case may be, until on the last schedule of the delivering carrier.

The present practice of Consolidated is to collect at Portland all of the freight which is offered during the day and carry it overnight to Medford, whereas the practice of O. N. C. is to leave Medford in time to bring about morning delivery in San Francisco. There is nothing to gain by hastening the interchange at Medford, since an interchange can be slow and morning delivery at San Francisco is still possible. A similar situation exists on northbound traffic, where O. N. C. holds its schedules for a night run to Medford, and Consolidated plans on a night run from Medford to Portland. No special effort is made by applicants to give freight destined to points beyond Portland, such as Seattle and Spokane, more expedited loading service at Medford, although in
46 many instances such an effort is made, and in some instances it is done.

O. N. C. and Consolidated must frequently deadhead equipment to and from interchange points. About half of the time, Consolidated receives more freight at Medford than it has arranged for, which makes it necessary to hold up its local or through tonnage. Equipment can be supplied at Medford from Roseburg, Eugene, Bend, and Klamath Falls within a few hours. Misinformation as to the volume of tonnage to be expected at Medford is caused by the fact that additional freight is picked up by O. N. C. at points north of San Francisco after Consolidated receives notice of the estimated tonnage to be transferred.

Eastern Oregon.—As seen, Consolidated now holds authority to serve Klamath Falls from the north and proposes to extend its operations southward from Klamath Falls to San Francisco. This will enable it to serve points in central and eastern Oregon and Washington, northern Idaho, and western Montana, over a route between San Francisco and Spokane through Klamath Falls, Bend, and Arlington, Oreg., and Kennewick, Wash. Connections will be made at Arlington with its already existing schedules for such points as Pendleton, La Grande, and Baker, Oreg., placing these points on an equal basis with southwestern Idaho points to which Consolidated now renders second-morning service from San Francisco. This route is approximately 140 miles shorter than that over which the traffic now moves, the highway is straighter, faster, and less congested, and the use of this route will enable Consolidated to provide a service a full day faster than any now available. There is now no service, through or joint, between the points in question over the proposed routes. Service at present is provided through Seattle or Portland and, in respect of certain Montana

points, through Twin Falls. Consolidated's present schedules between Portland and eastern Oregon would not be affected.

Consolidated now has operating rights over the route in
47 question between Spokane and Klamath Falls and O. N. C. has operating rights between Klamath Falls and San Francisco. Apparently O. N. C. is the only motor carrier of general commodities operating between Klamath Falls and San Francisco. At one time Consolidated tried to use this route through Klamath Falls in connection with O. N. C. Although it was an advantage to Consolidated to handle traffic through Klamath Falls, it disadvantaged (details not of record) O. N. C. to such an extent that it had to be abandoned.

Shippers from Pendleton, La Grande, Baker, The Dalles, and Bend, Oreg., Yakima, Spokane, and Wenatchee, Wash., and Coeur d'Alene, Kellogg, and Wallace, Idaho, support this portion of the application. In general they point out that they now have no through service to San Francisco; that they prefer a through service as it eliminates breakage from rehandling; and, in respect of certain shippers, that speed is essential in the delivery of certain of their shipments, such as repair parts for trucks, road-construction equipment, and mining equipment. The proposed savings of 1 day would enable at least one shipper to make more purchases in San Francisco and thus save him money as he can obtain supplies from the factories at San Francisco and Oakland more cheaply than at any other point. A concern engaged in packing, shipping, and receiving fruits and vegetables desires a through refrigerator service between The Dalles and San Francisco. These commodities will not arrive in good condition if rehandled. The freshness of fruits and vegetables has a tendency to increase the consumer demand. It discontinued shipments by motor vehicle because of the condition of the fruits and vegetables upon arrival on the available third-morning delivery. A creamery at Baker ships butter from Baker to San Francisco and receives some groceries from the latter point. It has to compete with creameries in southwestern Idaho territory which have second-day delivery to San Francisco. It now usese Consolidated through Portland and Medford. As they are but 80 miles from Ontario,
48 Oreg., they requested second-day service through Idaho but were informed that Consolidated has no authority so to operate. It is necessary to move their products to market as soon as possible.

Coos Bay area.—As stated, Consolidated proposes to institute a 20-hour schedule over the Coast Route between San Francisco and Marshfield. All intermediate points will be served, but from a practical standpoint, the number of stops will be few. The average speed proposed is 27 miles per hour. This route is said to be

preferable to the Valley Route because of less traffic, no difficult mountains to climb, and less snow conditions. Consolidated proposes to offer daily service between San Francisco and points on the Coast Route in Oregon south of Marshfield, affording first-afternoon delivery in Marshfield, North Bend, Coquille, and Bandon, Oreg., and first-morning delivery to points south of Bandon. Traffic for these points is presently transferred at Medford and Roseburg, Oreg., affording second-day delivery. In the event of insufficient traffic to fill its equipment, Consolidated will fill out the loads with Portland freight.

Exhibits were introduced by Consolidated and protestants pertaining to the use of the Coast Route as compared with the Valley Route. In view of our conclusions herein as to this portion of the application, it is deemed unnecessary to discuss such exhibits.

Consolidated has consistent demands from shippers on and near the Coast Route for through service from the San Francisco Bay area. It handles about 20,000 pounds of numerous commodities daily, including dairy and lumber products, from the Marshfield area to San Francisco. These shipments now move through Roseburg and Medford.

Dealers shipping dairy products from Myrtle Point, Norway, Reedsport, Cushman, Sixes, Coquille, Langlois, Marshfield, and Bandon, Oreg., and processed seafoods in containers and fresh fish from Port Orford, Oreg., to San Francisco Bay points desire to use Consolidated's proposed service. They prefer
59 through service, pointing out that cheese is fragile and not able to stand excessive rehandling such as movements by several carriers would entail.

One of these shippers uses the joint service of O. N. C. and Consolidated through Medford on the bulk of its freight which moves on mechanically refrigerated trailers. It favors this type of refrigeration because the temperature remains more constant. If Consolidated is granted its extension between Medford and San Francisco and gives through service, that operation would be satisfactory. One Marshfield shipper does not care if the Coast or Valley Route is used. Shipments moving over the Coast Route with reasonable dispatch do not require refrigeration at any time of the year. The Port Orford shipper is dissatisfied with the service of Central Transfer Co. because that carrier is not equipped to handle refrigerated products. He ships by truck to Marshfield and thence by express and also uses his own trucks to ship to the San Francisco Bay area. He believes that a daily service would help him build up his business and place him on an equal basis with his competitors at Eureka, Calif., who are receiving overnight service to San Francisco. The Port Orford Chamber of Commerce also desires a more dependable service.

Two shippers desire Consolidated's service on return from San Francisco. Together they average approximately six shipments a week. Both prefer through service, both use the joint service of Consolidated and O. N. C., and both assert that they need a faster service. The business of one—auto accessories and industrial parts—is predicated upon emergencies. One is not interested in the route used and the other has never received a shipment over the Coast Route. Two other shippers, although testifying chiefly as to a need for service to points not on the Coast Route, expressed a need for a faster through service to Marshfield and Coquille.

The Chamber of Commerce of Bandon is of the opinion that the granting of Consolidated's application to operate over the Coast Route would almost certainly jeopardize the local service rendered by Panter and Central Transfer.

Lakeview.—Consolidated now serves Lakeview by way of Klamath Falls. Shipments from San Francisco are transported by O. N. C. to Klamath Falls and there interchanged with Consolidated for delivery to Lakeview. Under Consolidated's proposed service from the San Francisco area, freight destined to Lakeview would arrive at Klamath Falls next morning and connect with Consolidated's present service for noon delivery at Lakeview. Consolidated requests the use of U. S. Highways 299 and 395 between Redding, Calif., and Lakeview through Alturas, Calif., as an alternate route, serving no intermediate points. The latter route is 50 miles shorter than the route through Klamath Falls and some time would be saved by use of this route on full loads. Present service to Lakeview from San Francisco through the joint service of Consolidated and O. N. C. is second day, while by rail it is essentially third-morning delivery (arrives 6 p. m. second day).

DISCUSSION AND CONCLUSION

There are submitted in evidence in these proceedings excerpts from testimony or portions of briefs wherein certain of the protestants, as well as both applicants, at one time or another, in other proceedings before this Commission involving extension of operations on the Pacific Coast, took positions directly contrary to that which they now take in the instant proceedings. For example, both applicants herein appeared as protestants in the proceeding wherein Pierce sought to extend its operations to San Francisco. At that time, applicants herein contended their joint service was satisfactory while Pierce contended that a through service was superior. In effect, protestants urge that this, together with the matters heretofore discussed pertaining to events leading to the filing of the instant applications, establishes that the authority sought is an attempt on the part of each applicant herein to invade

51 the territory of the other. On the other hand, it is said that the real reason for the filing of these applications is the mutual desire of O. N. C. and Consolidated to retain the business they have promoted and to share in the normal increase in that business by establishing a type of service acceptable to the public.

To determine which of these two contentions is correct is unnecessary. Certainly any motor carrier may file an application under section 207 (a) of the act and the issues would be, as in these proceedings, whether the proposed service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing carriers; and whether it can be served by an applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest. We first will dispose of those portions of the applications as to which no evidence was adduced of a need for the service of either applicant, or as to which the record establishes little, if any, need.

Each applicant requests authority to serve certain specified off-route points as well as all points within a certain distance of the highways over which it seeks authority to operate. There is no evidence as to a need for the service of either applicant to any off-route point except in respect of the need for the service of (1) O. N. C. at the off-route points of Camas, Vancouver, Washougal, and Glendale, and of (2) Consolidated at certain off-route points which it now has authority to serve. Accordingly, authority to serve any off-route points except the four named will be denied.

Each applicant also requests authority to serve Coquille, Marshfield, and other points in the so-called Coos Bay area—O. N. C. over Oregon Highway 42, U. S. Highway 101, and Oregon Highway 38, and Consolidated over the Coast Route. O. N. C., as a result of its purchase of the rights of Transcontinental, has authority to operate over the Coast Route and to serve every

52 point as to which there is any evidence as to a need for its service except with respect to Reedsport, Oreg. As to the latter point, one witness receives small shipments from San Francisco about once a week and another witness seldom uses truck service from San Francisco. The evidence as to a need for Consolidated's service over the Coast Route has been discussed in detail herein, and it is evident that, with few exceptions, the shippers would be satisfied if Consolidated is authorized to perform a through operation over the Valley Route. Accordingly, and in view of our conclusions authorizing Consolidated to operate over the Valley Route, these portions of the applications also will be denied.

As seen, Consolidated and O. N. C. transport the bulk of the traffic between San Francisco and Portland. For reasons which are obvious, authority should be either granted or denied to both applicants to operate over the Valley Route. Authorizing Consolidated to operate over the route between San Francisco and Klamath Falls would enable it to operate between Portland and San Francisco.

Each of the two applicants herein offers, over the Valley Route, an expedited through single-line service as well as service to and from all intermediate points. There is no doubt but that a number of shippers desire such proposed services. Each applicant also operates units equipped with mechanical refrigeration, which service certain of the shippers desire for the proper transportation of their shipments. The proposed service will enable shippers to obtain goods more rapidly, resulting in an increase in their businesses. Some of the shippers estimate an increase in business amounting to several thousand dollars. Practically all of the witnesses prefer a single-line through service. Some of them have used the services of existing carriers and have not found them satisfactory principally because of improper refrigeration or lack of service to intermediate points. The latter complaint also pertains to the fact that protestants come through the intermediate points with full loads and shipments have to be held.

It is true, as pointed out by protestants, that some of the
53 shippers have not used available through single-line service and further, that some were not familiar with the services offered by existing carriers. On the other hand, some witnesses have used the existing service and found it unsatisfactory; and some have used the service of P. T. E. and found it very satisfactory, but are desirous of obtaining a single-line through service to replace it, for, as stated, P. T. E. no longer operates a through service between the points in question. That some of the witnesses were not familiar with the fact that Pierce was rendering daily service between Portland and San Francisco is readily understandable from the facts heretofore discussed.

Protestants also argue that if these two applicants would be more cooperative, arrange for through billing to and from all points, and exchange power equipment as well as trailers, they could render the services proposed herein. Through trailers represent no savings in time because they have to be held until the power equipment arrives. If the power equipment is a truck, the lading must be transferred from the truck. Each applicant also has its own ideas as to the proper type of equipment to be used as heretofore explained. It is noted that some of the protestants

agree with Consolidated, while some agree with O. N. C. in this matter of proper equipment.

Protestants allege that the granting of authority to operate over the Valley Route, especially as to south-bound traffic, would further divide the available traffic and impair their ability to render adequate service. But the traffic north-bound as well as south-bound is increasing, and from the facts heretofore discussed in respect of the increase in business enjoyed by the motor-carrier protestants, it would be difficult to conclude that authorizing applicants to perform the operations set forth in our findings herein would so endanger or impair the operations of existing carriers as to be contrary to the public interest. Certainly, there is no evidence of any impairment of existing service if
54 Consolidated is authorized to extend its route southward from Klamath Falls, for there is now no service, through or joint, between points in central and eastern Oregon and Washington over the proposed routes.

The operations of protestants have been described in some detail. Of the motor-carrier protestants, there is only one—Pierce—which is authorized to transport general commodities to and from all intermediate points along the Valley Route. Pierce did not reinstitute daily operation to and from San Francisco, however, until after the filing of these applications and but a few weeks prior to the hearings herein. Shipper witnesses generally were unfamiliar with the fact that Pierce's operation was daily. There are, of course, certain other motor carriers operating over this route but their authority is either (1) restricted in such a way as to preclude a finding that their service is adequate especially as to intermediate points, or (2) the record definitely establishes that their service to intermediate points, and in some instances to and from San Francisco, is at best negligible. In view of the foregoing, we are of the opinion that public convenience and necessity require the operations set forth in our findings herein.

Fitness.—There is no doubt as to O. N. C.'s fitness, financial or otherwise, to conduct the operations herein authorized, although protestants question Consolidated's financial ability to conduct the proposed operation. Protestants contend that if these applications are granted each applicant will operate at a loss. Each applicant of course claims that it will be better off if allowed to operate straight through without the necessity of interchanging at Medford. Elimination of the cost of transfer at Medford would save approximately fifteen or sixteen hundred dollars a month. Considering the fact heretofore discussed in some detail, we are of the opinion that we should give applicants the benefit of any doubts that may exist as to whether they could operate successfully over the routes authorized herein.

55 General.—In its exceptions, O. N. C. also requests a further hearing, but in view of our conclusions herein it is doubtful whether it would still desire such further hearing. Its request for further hearing is hereby denied. As stated, each applicant has authority to transport general commodities, with certain exceptions. As the authority granted herein is but an extension of the present operations of each applicant, the authority granted will preclude the transportation of those articles which it now has no authority to transport and also will preclude the transportation of household goods, as such transportation is a specialized one and there is no evidence of a need for the service of either applicant in this respect.

FINDINGS

In No. MC–42487 (Sub. Nos. 15, 18, 19, and 20), we find that the present and future public convenience and necessity require operation by applicant, Consolidated Freightways, Inc., as a common carrier by motor vehicle of general commodities, except liquid petroleum products in bulk in tank trucks, and except household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M. C. C. 467, in interstate or foreign commerce, between the points and over routes 1, 2, and 3 in the manner described in appendix A attached hereto; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the act and our rules and regulations thereunder; that a certificate authorizing such operations should be granted; and that the applications in all other respects should be denied.

In No. MC–9115 (Sub. No. 1), we find that the present and future public convenience and necessity require operation by applicant, Oregon-Nevada-California Fast Freight, Inc., as a common carrier by motor vehicle of general commodities, except articles of extraordinary value (other than ore concentrates), liquids in bulk, dangerous explosives, livestock, machinery requiring
56 special equipment for handling, household goods as defined in Practices of Motor Common Carriers of Household Goods, supra, and assembled automobiles, in interstate or foreign commerce, between the points and over routes 1 (a), 1 (c), and 2 in the manner described in appendix B attached hereto; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the act and our rules and regulations thereunder; that a certificate authorizing such operations should be granted; and that the application in all other respects should be denied.

Upon compliance by applicants with the requirements of sections 215 and 217 of the act and our rules and regulations there-

under, an appropriate certificate will be issued to each. An order will be entered denying the applications except to the extent granted by our findings herein.

ROGERS, Commissioner, dissenting.

It is my opinion that public convenience and necessity do not require the establishment of the through routes proposed by applicants. These applicants have performed a similar service for many years by interchanging traffic with each other at Klamath Falls and Medford and up to the time of their disagreement concerning the organization of "Freightways," the service appears to have been satisfactory. Unquestionably a through route service by each applicant would expedite and simplify the movement of traffic, but, at this time, when it is necessary to conserve rubber and gasoline, it seems to me to be wasteful to allow the inauguration of the proposed services. My opinion is that the applications should be denied without prejudice to the consideration of similar applications after the close of the war.

APPENDIX A

Authority Sought by Consolidated Freightways, Inc. Route 1. Between San Francisco, Calif., and Klamath Falls, Oreg.:

57 Fr m San Francisco over U. S. Highway 40 to junction U. S. Highways 40 and 99W near Davis, Calif., thence over U. S. Highway 99W to Red Bluff, Calif. (also from junction of U. S. Highway 40 and 99W over U. S. Highway 40 to Sacramento, Calif., thence over U. S. Highway 99E to Red Bluff), thence over U. S. Highway 99 to Weed, Calif., and thence over U. S. Highway 97 to Klamath Falls, Oreg., and return over same routes. All intermediate points.

Route 2. Between San Francisco, Calif., and Medford, Oregon:

From San Francisco to Weed, Calif., as specified above, thence over U. S. Highway 99 to Medford, and return over same route. All intermediate points.

Route 3. Between Redding, Calif., and Lakeview, Oreg.:

From Redding over U. S. Highway 299 to Alturas, Calif., thence over U. S. Highway 395 to Lakeview, and return over same route. No service at intermediate points.

Route 4. Between San Francisco, Calif., and Marshfield, Oreg., over U. S. Highway 101, serving all intermediate points.

Limitation: No local freight service between San Francisco and the California-Oregon State line, over any route: between Klamath Falls and the Oregon-California State line over Route 1; and between Medford and the Oregon-California State line over Route 2.

APPENDIX B

Authority sought by Oregon-Nevada-California Fast Freight, Inc.

Route 1. Between Medford, Oreg., and Portland, Oreg.:

(a) from Medford over U. S. Highway 99 through Drain, Oregon, to Junction City, Oreg., thence over either U. S. Highway 99W or U. S. Highway 99E to Portland, and return over same routes.

(b) from Medford over U. S. Highway 99 to junction U. S. Highway 99 and Oregon Highway 42 near Dillard, Oreg., thence over Oregon Highway 42 to Coquille, Oreg., thence over U. S. Highway 101 to Reedsport, Oreg., thence over Oregon Highway 38 to Drain, Oreg., and thence to Portland as specified above, and return over same routes.

(c) from Medford over U. S. Highway 99 to Junction City, thence over U. S. Highway 99W to junction Oregon Highway 47, thence over Oregon Highway 47 to Forest Grove, Oreg., thence over Oregon Highway 2 to Beaverton, Oreg., thence over Oregon Highway 10 to junction U. S. Highway 99W, and thence over U. S. Highway 99W to Portland, and return over the same route.

All intermediate points on routes (a), (b), and (c), and
58 off-route points of Glendale, Oreg., and Vancouver, Camas, and Washougal, Wash., subject to the following limitations: no local service between Vancouver, Wash., Portland and Drain, Oreg., and points on U. S. Highways 99E and 99W between Portland and Drain, and those on Oregon Highways 2 and 47.

Route 2. Between Klamath Falls, Oreg., and Goshen, Oreg.:

From Klamath Falls to junction U. S. Highway 97 and Oregon Highway 58 over U. S. Highway 97, thence over Oregon Highway 58 to Goshen, and return over same route. No intermediate points.

APPENDIX C

Consolidated's present and proposed delivery service on traffic originating at San Francisco Bay points.

	To—	Time of delivery
Proposed service	Spokane, Wash	2nd morning.
Present service:		
Consolidated		3rd morning.
Pierce		3rd morning.
Colletti		3rd morning.
L. A. S		4th morning.
Rail		2nd day.
Railway Express		2nd morning.
Proposed service	Wenatchee, Wash	

	To—	Time of delivery
Present service:		
Consolidated		3rd morning.
Colletti—via Portland		3rd morning.
Colletti—via Seattle		4th morning.
Pierce—via Portland		3rd morning.
Pierce—via Seattle		4th morning.
Rail		4th morning.
Proposed service	Yakima, Wash	2nd morning.
Present service:		
Consolidated		3rd morning.
Pierce		3rd morning.
Rail		4th morning.
Proposed service	Pendleton, La Grande, and Baker, Oreg.	2nd morning.
Present service:		
Consolidated		3rd day.
Rail		4th day.
Proposed service	Wallace, Idaho, and Missoula, Mont.	3rd morning.
Present service:	Wallace	
Consolidated		5th day.
Rail		6 to 7 days.
Railway Express		3rd day.
59 Proposed service	Bend, Oreg	1st afternoon.
Present service:		
Consolidated		2nd morning.
Pierce		3rd day.
Rail		4th day.
Railway Express		2nd day.
Proposed service	Eugene, Oreg	1st afternoon.
Present service:		
Consolidated		2nd day.
Rail		2nd afternoon.
Proposed service	Salem, Oreg	1st afternoon (late).
Present service:		
Consolidated		2nd day.
Rail	{Arrival	9:30 p. m. 2nd day.
	{Delivery	3rd morning.
Proposed service	Lakeview, Oreg	{1st day (noon). {2nd day.
Present service:		
Rail	{Arrival	6 p. m. 2d day.
	{Delivery	3rd morning.
Present service	Marshfield, Oreg. (via U. S. Highway 99).	
Consolidated		2nd day.
Rail-truck service		8 a. m. 2d day.
Proposed service	Marshfield, Oreg. (via U. S. Highway 101).	1st afternoon.
Present service		2nd afternoon or 3rd morning.
Proposed service	Brookings, Pistol River, Oreg. (via U. S. Highway 101).	1st morning.
Present service		2nd afternoon.
Proposed service	Gold Beach, Oreg	1st morning.
Present service		2nd morning (noon).
Proposed service	Seattle and Tacoma, Wash	2nd morning.
Present service:		
Consolidated		3rd morning.
Rail		3rd morning.
Colletti		3rd morning.
L. A. S	Seattle	2nd morning.
Pierce		3rd morning.
Proposed service	Portland, Oreg	2nd morning.
Present service:		
Pierce		2nd morning.
Colletti		2nd afternoon.
L. A. S		2nd morning.
Rail		3rd morning.

60 *Order*

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of March, A. D. 1943

No. MC–42487 (Sub. No. 15)

CONSOLIDATED FREIGHTWAYS, INC., EXTENSION—KLAMATH FALLS, OREG.–SAN FRANCISCO, CALIF.

No. MC–42487 (Sub. No. 18)

CONSOLIDATED FREIGHTWAYS, INC., EXTENSION—LAKEVIEW

No. MC–42487 (Sub. No. 19)

CONSOLIDATED FREIGHTWAYS, INC., EXTENSION—MARSHFIELD

No. MC–42487 (Sub. No. 20)

CONSOLIDATED FREIGHTWAYS, INC., EXTENSION—MEDFORD

No. MC–9115 (Sub. No. 1)

OREGON-NEVADA-CALIFORNIA FAST FREIGHT, INC., EXTENSION—PORTLAND

Investigation of the matters and things involved in these proceedings having been made, and said division, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

It is ordered, That said applications, except to the extent granted herein, be, and they are hereby, denied, effective April 19, 1943.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

61 *Exhibit B to complaint*

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

No. MC–42487 Sub. 15[1]

CONSOLIDATED FREIGHTWAYS, INC., PORTLAND, OREGON

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 7th day of September, A. D. 1943

[1] This certificate also embraces Dockets No. MC–42487 Sub. 18, MC–42487 Sub. 19, and MC–42487 Sub. 20, Consolidated Freightways, Inc., Extension of Operations.

After Due Investigation, It appearing that the above-named carrier has complied with all applicable provisions of the Interstate Commerce Act and the requirements, rules, and regulations prescribed thereunder, and, therefore, is entitled to receive authority from this Commission to engage in transportation in interstate or foreign commerce as a motor carrier; and the Commission so finding;

It is ordered, That the said carrier be, and it is hereby, granted this Certificate of Public Convenience and Necessity as evidence of the authority of the holder to engage in transportation in interstate or foreign commerce as a common carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privileges herein granted to the said carrier.

It is further ordered, That the transportation service to be performed by the said carrier in interstate or foreign commerce shall be as specified below:

General commodities, except liquid petroleum products in bulk, in tank trucks, and except household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M. C. C. 467, over regular routes.

Between San Francisco, Calif., and Klamath Falls, Oreg.:

From San Francisco over U. S. Highway 40 to junction U. S. highway 99W near Davis, Calif., thence over U. S. Highway 99W to Red Bluff, Calif. (also from junction U. S. Highway 40 and U. S. Highway 99W over U. S. Highway 40 to Sacramento, Calif., thence over U. S. Highway 99E to Red Bluff), thence over U. S. Highway 99 to Weed, Calif., and thence over U. S. Highway 97 to Klamath Falls.

62 Service is authorized to and from all intermediate points, except that local freight service is not authorized between Klamath Falls, Oreg., and the Oregon-California State line.

Between San Francisco, Calif., and Medford, Oreg.:

From San Francisco to Weed, Calif., as specified above, thence over U. S. Highway 99 to Medford.

Service is authorized to and from all intermediate points, except that local freight service is not authorized between Medford, Oreg., and the Oregon-California State line.

Between Redding, Calif., and Lakeview, Oreg.:

From Redding over U. S. Highway 299 to Alturas, Calif., thence over U. S. Highway 395 to Lakeview.

Service is not authorized to or from intermediate points.

Return over the above-specified routes to Redding and San Francisco, Calif.

Restriction: Local freight service is not authorized between San Francisco and the California-Oregon State line over the above-specified routes.

And it is further ordered, and is made a condition of this certificate that the holder thereof shall render reasonably continuous and adequate service to the public in pursuance of the authority herein granted, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of this certificate.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

63 *Exhibit C to Complaint*

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

No. MC 9115 Sub. 1

OREGON-NEVADA-CALIFORNIA FAST FREIGHT, INC., SAN FRANCISCO, CALIFORNIA

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 15th day of September, A. D. 1943

After Due Investigation, It appearing that the above-named carrier has complied with all applicable provisions of the Interstate Commerce Act, and the requirements, rules, and regulations prescribed thereunder, and, therefore, is entitled to receive authority from this Commission to engage in transportation in interstate or foreign commerce as a motor carrier; and the Commission so finding;

It is ordered, That the said carrier be, and it is hereby, granted this Certificate of Public Convenience and Necessity as evidence of the authority of the holder to engage in transportation in interstate or foreign commerce as a common carrier by motor vehicle; subject, however, to such terms, conditions, and limitation as are now, or may hereafter be, attached to the exercise of the privileges herein granted to the said carrier.

It is further ordered, That the transportation service to be performed by the said carrier in interstate or foreign commerce shall be as specified below:

General commodities, except articles of extraordinary value (other than are concentrates) and except dangerous explosives, livestock, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M. C. C. 467, liquids in bulk,

assembled automobiles, and machinery requiring special equipment for handling, over regular routes,

Between Medford, Oreg., and Portland, Oreg.:

From Medford over U. S. Highway 99 through Drain, Oreg., to Junction City, Oreg., thence over U. S. Highway 99W to Portland (also over U. S. Highway 99E to Portland).

From Medford over U. S. Highway 99 to Junction City, Oreg., thence over U. S. Highway 99W to junction Oregon Highway 47, thence over Oregon Highway 47 to Forest Grove, Oreg.,
64 thence over Oregon Highway 2 to Beaverton, Oreg., thence over Oregon Highway 10 to junction U. S. Highway 99W, and thence over U. S. Highway 99W to Portland.

Service is authorized to and from all intermediate points and the off-route points of Glendale, Oreg., Vancouver, Camas, and Washougal, Wash., except that no local service is authorized between Vancouver, Wash., and Portland and Drain, Oreg., and points and places on U. S. Highway 99E and U. S. Highway 99W between Portland and Drain, Oreg., and those on Oregon Highway 2 and Oregon Highway 47.

Between Klamath Falls, Oreg., and Goshen, Oreg.:

From Klamath Falls over U. S. Highway 97 to junction Oregon Highway 58, thence over Oregon Highway 58 to Goshen.

Service is not authorized to or from intermediate points.

Return over the above-specified routes to Medford and Klamath Falls, Oreg.

And it is further ordered, and is made a condition of this certificate that the holder thereof shall render reasonably continuous and adequate service to the public in pursuance of the authority herein granted, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of this certificate.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

65 In United States District Court

[Title omitted.]

Answer of the United States

Filed April 24, 1944

Now comes the United States, defendant herein, and in answer to the complaint says:

1. Admits the allegations of paragraphs I through VII of the complaint.

2. In answer to paragraph VIII of the complaint admits that the authorized operations are competitive with those conducted by plaintiffs and that plaintiffs will suffer such injury as to give them a standing to bring this suit. Denies the remaining allegations of that paragraph.

3. Admits the allegations of paragraph IX. For further answer to said paragraph alleges that applicants Consolidated Freightways, Inc. and Oregon-Nevada-California Fast Freight, Inc. filed extensive replies to the petitions for reconsideration and rehearing filed by plaintiffs on April 6, 1943, in which replies
66 the allegations with respect to changed conditions in plaintiffs' petitions were denied, and that the Commission on consideration of both the petitions and the replies thereto denied the petitions on August 2, 1943.

4. Denies that the Commission's report and order is unlawful or invalid for any of the reasons assigned in paragraph X of the complaint or for any other reason.

5. Denies the allegations of paragraph XI of the complaint.

6. Admits the allegations of paragraph XII of the complaint.

Wherefore, it is respectfully prayed that the complaint be dismissed.

Robert L. Pierce,
ROBERT L. PIERCE,
Special Assistant to the Attorney General.

WENDELL BERGE,
Assistant Attorney General.
CARL DONAUGH,
United States Attorney.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the above answer upon each of the following counsel this 19th day of April 1944, by mailing them a copy thereof: William P. Ellis, Esquire, 212 Masonic Building, Salem, Oregon; Henry T. Ivers, Esquire, Hoge Building, Seattle, Washington; Alfred A. Hampson, Esquire, 800 Pa
67 cific Building, Portland 4, Oregon; Allen Crenshaw, Esquire, Interstate Commerce Commission, Washington 25, D. C.; Donald A. Schafer, Esquire, Public Service Building, Portland 4, Oregon.

Robert L. Pierce,
ROBERT L. PIERCE,
Special Assistant to the Attorney General.

[Filing endorsement omitted.]

68 In United States District Court

[Title omitted.]

Intervention of Interstate Commerce Commission

To the Honorable the Judges of said Court:

In accordance with the provisions of section 212 of the Judicial Code, 36 Stat. L. 1150 (U. S. Code, Sup. VI, title 28, Sec. 45a), we hereby enter the appearance of the Interstate Commerce Commission as a party defendant, and of ourselves, as its counsel, in the above-entitled suit.

ALLEN CRENSHAW,
Attorney,
For Interstate Commerce Commission.

DANIEL W. KNOWLTON,
Chief Counsel, of Counsel.

69 In United States District Court

[Title omitted.]

Answer of Interstate Commerce Commission

Filed April 10, 1944

The Interstate Commerce Commission, hereinafter called the Commission, one of the defendants in the above-entitled action, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of exception to the many errors and insufficiencies in the plaintiffs' complaint contained, for answer thereunto or unto so much or such parts thereof as it is advised that it is material for it to answer, answers and says:

I

Upon information and belief, and for the purposes of this action, the Commission admits the allegations of paragraphs I, II, III, and IV of the complaint, except it is denied that operations of these several carriers, as authorized by the Commission, constitutes an exclusive right to serve the routes, points, and territory in question, or that the service of such carriers fully and completely serves the public convenience and necessity of all shippers located on said routes or at such points and in such territory.

70

II

Answering the allegations of paragraphs V and VI of the complaint the Commission admits that the Court has jurisdiction herein and of the parties thereto.

III

Further answering the allegations of the complaint as a whole, the Commission alleges that proceedings involving the subject of this action were instituted before the Commission upon the filing of an application by the Consolidated Freightways, Inc., on January 2, 1940, for a certificate under the provisions of section 207 (a) of the Interstate Commerce Act, authorizing operations as a common carrier by motor vehicle, over certain routes and from and to certain points therein described, and upon the filing of an application by Oregon-Nevada-California Fast Freight, Inc., on January 26, 1940, for a certificate under section 207 (a) of the Interstate Commerce Act authorizing operations over certain routes and to and from certain points named therein; that thereafter hearings were ordered and held before joint boards, as provided by law, and the said joint boards being unable to agree upon a recommended report and order, the Commission examiner assigned for such purpose did submit his recommended report and order, to which exceptions thereto were filed by various parties appearing, including some of the plaintiffs herein, and thereafter the Commission by and through Division 5 made and entered its report and order of March 1, 1943, the said report having consolidated and decided both the application of Consolidated Freightways, Inc., and of Oregon-Nevada-California Fast Freight, Inc., upon a record in part consolidated by stipulation of parties, the said report and order of Division 5 granting in part the applications of both of said applicants of a certificate authorizing operations over certain routes and to and from certain points as

71 stated and described in said report and order, which said routes and points include those involved in this action, as alleged by the complaint; that certain protestants appearing in said action, including plaintiffs herein, filed a petition for reconsideration, and rehearing on April 10, 1943, which said petition was denied by the Commission at a general session by order dated August 2, 1943; that the said order of Division 5 entered March 1, 1943, was by its terms made effective on April 19, 1943, and became effective on that date; that, under and by virtue of the report and order of March 1, 1943, effective as of April 19, 1943, certificates, evidencing the authority granted by said order, were issued to the Consoli-

dated Freightways, Inc., on September 7, 1943, and to Oregon-Nevada-California Fast Freight, Inc., on September 15, 1943; copies of the report and order of Division 5 entered March 1, 1943, are attached hereto and marked "Exhibits A and B," respectively.

The Commission further alleges that in said proceedings the parties thereto, including the plaintiffs herein, were, and each of them was, accorded the full hearing provided for in and by the Interstate Commerce Act; that in said hearings a large volume of testimony and other evidence bearing upon matters covered in and by the report and orders of the Commission, hereinafter referred to and identified, were submitted to the Commission for consideration, including testimony and other evidence submitted on behalf of plaintiffs herein by their counsel; that in said hearings and subsequently in briefs filed in said proceedings, questions relating to said matters were fully argued and submitted to the Commission for determination on behalf of said plaintiffs by their counsel, including many of the questions raised by the plaintiff in this action.

The Commission further alleges that the findings and conclusions in said report and order were and are, and that each of them was and is, fully supported and justified by the evi-
72 dence submitted in said proceedings as aforesaid, and that in making said report it considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance and condition called to its attention on behalf of the parties to said proceedings by their respective counsel.

The Commission further alleges that said report and order of March 1, 1943, were not made or entered either arbitrarily or unjustly, or without proof or contrary to the relevant evidence, or without evidence to support them; that in making said report and order the Commission did not exceed the authority conferred upon it by law, and the Commission denies each of and all the allegations to the contrary contained in the complaint.

Except as herein expressly admitted, the Commission denies the truth of each of and all the allegations contained in the complaint, insofar as they conflict either with the allegations herein, or with either the statements or conclusions of fact included in said report and order of March 1, 1943, heretofore referred to as Exhibits A and B to this answer.

IV

Specifically answering the allegations of paragraph VIII of the complaint, the Commission denies that plaintiffs will suffer damage by reason of the report and order of March 1, 1943, or that the said order will deprive plaintiffs of their property without due process of law, or that there has been any violation, because of

said report and order of the constitutional rights of the said plaintiffs.

All of which matters and things the Commission is ready to aver, maintain, and prove as this Honorable Court shall direct, and hereby prays that said complaint be dismissed.

INTERSTATE COMMERCE COMMISSION,
By ALLEN CRENSHAW, *Attorney.*

DANIEL W. KNOWLTON,
Chief Counsel, of Counsel.

73 [Duly sworn to by Charles D. Mahaffie; jurat omitted in printing.]

(File endorsement omitted.)

74 In United States District Court

Notice of motion for leave to intervene

Filed April 15, 1944

Please take notice that the undersigned will bring the attached motion for intervention on for hearing before the District Court of the United States, for the District of Oregon, in Judge James Alger Fee's courtroom in the United States Court House, Southwest Sixth Avenue and Main Street, Portland, Oregon, on the 24th day of April 1944, at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard.

Dated at Portland, Oregon, April 15, 1944.

DONALD A. SCHAFER,
Attorney for Applicant for Intervention,
Consolidated Freightways, Inc.

WM. P. ELLIS,
212 Masonic Building,
Salem, Oregon.
HENRY T. IVERS,
Hoge Building,
Seattle, Washington.
ALFRED A. HAMPSON,
800 Pacific Building,
Portland 4, Oregon.

(File endorsement omitted.)

75 In United States District Court

[Title Omitted.]

Motion for leave to intervene as a defendant

Filed April 15, 1944

Consolidated Freightways, Inc., moves for leave to intervene as a defendant in this action in order to assert the defense set forth in its proposed answer, of which a copy is hereto attached, on the ground that applicant's rights to operate in interstate commerce between San Francisco, California, on the one hand, and Medford and Klamath Falls, Oregon, on the other, is being attacked, and that the representation of applicant's interest by existing parties may be inadequate and the applicant is bound by a judgment in the action.

DONALD A. SCHAFER,
Attorney for Consolidated Freightways, Inc.,
Applicant for Intervention,
803 Public Service Building, Portland 4, Oregon.

[File endorsement omitted.]

76 In United States District Court

[Title Omitted.]

Answer of intervenor, Consolidated Freightways, Inc.

Comes now Intervenor and makes the following answer to plaintiff's complaint:

FIRST DEFENSE

The right to commence an action to set aside and annul an order of the Interstate Commerce Commission is limited by statute (28 U. S. C. A. Sec. 45 (a)) to a party or parties in interest to the proceeding before the Commission.

Plaintiffs have no legal interest which is affected or violated by the order of the Interstate Commerce Commission complained of by the complaint and hence are not "parties in interest to the proceeding before the Commission" and have no standing to maintain this suit:

1. Pierce Auto Freight Lines, Inc., is not a party in interest, since the certificate of public convenience and necessity under which it claims authority to transport commodities in interstate commerce between Medford, Oregon, and San Francisco, Califor-

nia, is null and void because issued pursuant to the report and order of the Interstate Commerce Commission recorded in Volume 30 of the Motor Carrier Cases at pages 629 to 639 inclusive, which was null and void in that:

(a) The Commission misconceived its statutory powers and exceeded its jurisdiction and authority in that it erroneously and improperly disregarded the burden of proof which was upon
77 the applicant and waived such legal requirements by extending benefit of doubt to said applicant on controversial issues relating thereto.

(b) The conclusions of the Commission were not supported by its findings, particularly in that the report and order contained no findings that existing carriers were not adequately equipped, able and willing to serve the needs of all of the shippers within the territory involved in an adequate or efficient manner and that they or any of them were unable or unwilling to provide additional equipment or service when needed.

(c) The report and order contained no finding that the granting of the application would not result in the impairment of the ability of existing carriers to continue to serve the public.

(d) The report and order of the Commission was predicated upon a record made at hearings prior to February 17, 1939, and hearings subsequent thereto, which record was submitted to the Interstate Commerce Commission on June 11, 1940, and the issues raised thereby were not decided until October 6, 1941, which record, in the light of the tremendous change of the transportation system of the area, failed completely to reflect conditions existing at the time of the making of the report and order of the Commission.

(e) Such findings as were made by the Commission were wholly insufficient to support the order.

2. Los Angeles-Seattle Motor Express, Inc., is not a party in interest since the certificate of public convenience and necessity under which it claims authority to transport general commodities between San Francisco Bay points and Portland, Oregon, is null and void because issued pursuant to the report and order of the Interstate Commerce Commission recorded in Volume 29 of Motor Carrier Cases at pages 81 to 92, inclusive, which was null and void in that:

(a) The Commission misconceived its statutory powers and exceeded its jurisdiction and authority in that it erroneously assumed and concluded that evidence of the preference by shippers for single-line service of applicant to the joint-line service offered by protestants, even when the joint-line service of Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight,

Inc., provided comparable service without transfer, established the existence of public convenience and necessity
78 for another carrier.

(b) The conclusions of the Commission were not supported by its findings, particularly in that the report and order contained no findings that existing carriers were not adequately equipped to serve the needs of all of the shippers within the territory involved in an adequate or efficient manner and that they or any of them were unable or unwilling to provide additional equipment or service when needed.

(c) The report and order contained no finding that the granting of the application would not result in the impairment of the ability of existing carriers to continue to serve the public.

(d) Such findings as were made by the Commission were wholly insufficient to support the order.

3. Angelo Colletti, doing business as Colletti Fast Freight, is not a party in interest since the certificate of public convenience and necessity under which he claims authority to transport general commodities in interstate commerce between Los Angeles and Seattle and certain limited commodities in shipments of not less than 5,000 pounds from certain points in Washington and Oregon to certain California points, including Oakland and San Francisco, is null and void because issued pursuant to the report and order of the Interstate Commerce Commission recorded in Volume 32, Motor Carrier Cases, at pages 363 to 370 inclusive, which was null and void in that:

(a) The Commission misconceived its statutory powers and exceeded its jurisdiction and authority in that it erroneously and improperly disregarded the burden of proof which was upon the applicant and waived such legal requirements by placing that burden upon the protestants.

(b) The conclusions of the Commission were not supported by its findings particularly in that the report and order contained no findings that existing carriers were not adequately equipped to serve the needs of all of the shippers within the territory involved in an adequate or efficient manner and that they or any of them were unable or unwilling to provide additional equipment when needed.

(c) The report and order contained no finding that the
79 granting of the application would not result in the impairment of the ability of existing carriers to continue to serve the public.

(d) Such findings as were made by the Commission were wholly insufficient to support the order.

4. Pacific Motor Trucking Company, a wholly owned subsidiary of the Southern Pacific Company, is not a party in interest since

the permission granted it under Docket No. MC–F–763, recorded in Volume 35 of Motor Carrier Cases at pages 353 to 360, inclusive, to acquire control of Pacific Truck Express by purchase of its capital stock was limited by the provision that the "authority granted should be subject to such further limitations, restrictions, or modifications as Division 4 might find it necessary to impose in order to insure that the service shall be auxiliary or supplementary to train service of Southern Pacific Company." Further, the operation of the Pacific Truck Express rights by Pacific Motor Trucking Company was limited by statement of its representatives at the Interstate Commerce Commission hearing of the present case that service between Oregon points and San Francisco would not be offered by Pacific Motor Trucking Company.

The certificate of public convenience and necessity under which Pacific Motor Trucking Company claims authority to serve all intermediate points between Ashland, Oregon, and South San Francisco, California, was obtained by Pacific Truck Express in Docket MC–1592, Sub. No. 4, recorded in Volume 22, Motor Carrier Cases, at pages 671 to 676 inclusive, and is null and void because issued pursuant to the report and order issued in said case which was null and void in that:

(a) The Commission misconceived its statutory powers and exceeded its jurisdiction and authority in that it erroneously and improperly disregarded the burden of proof which was upon the applicant and waived such legal requirements by the shifting of that burden to the protestants.

(b) The conclusions of the Commission were not supported by its findings, particularly in that the report and order contained no findings that existing carriers were not adequately equipped, able and willing to serve the needs of all of the shippers
80 within the territory involved in an adequate or efficient manner and that they or any of them were unable or unwilling to provide additional equipment or service when needed.

(c) The report and order contained no finding that the granting of the application would not result in the impairment of the ability of existing carriers to continue to serve the public.

(d) Such findings as were made by the Commission were wholly insufficient to support the order.

5. Plaintiff Pacific Southwest Railroad Association is not a party in interest as it is only a voluntary association of certain railroads and, as such, has no legal interest which is affected or violated by the order of the Interstate Commerce Commission.

Wherefore, this intervenor moves that the complaint be dismissed and prays that an order be entered accordingly.

SECOND DEFENSE

Intervenor, Consolidated Freightways, Inc., for its second defense to the complaint, says:

1. Answering paragraph I, denies that plaintiff Pierce Auto Freight Lines, Inc., holds an appropriate certificate from the Interstate Commerce Commission duly authorizing it to conduct common-carrier business between Portland, Oregon, and San Francisco, California, for the reasons stated in paragraph 1 and subparagraphs (a), (b), (c), (d), and (e) thereof in the First Defense.

2. Answering paragraph II, alleges that it is without knowledge or information sufficient to form a belief as to whether or not plaintiff Angelo Colletti, doing business under the assumed name and style of Colletti Fast Freight, is engaged in the business of transporting general commodities for hire in interstate or foreign commerce as a common carrier between Seattle, Washington, and Portland, Oregon, on the one hand, and San Francisco, California, on the other, but specifically alleges that, if he is so doing, he is doing so without any color of authority from the Interstate Commerce Commission. Intervenor denies that Los Angeles-Seattle Motor Express holds an appropriate certificate 5—Answer
81 of Intervenor, Consolidated Freightways, Inc. for the transportation of general commodities and that Angelo Colletti holds an appropriate certificate for the transportation of a limited list of commodities between Seattle and Portland, on the one hand, and San Francisco, on the other, for the reasons stated respectively in paragraph 2 and subparagraphs (a), (b), (c), and (d) thereof and paragraph 3 and subparagraphs (a), (b), (c), and (d) thereof in the first defense.

3. Answering paragraph III, denies that Pacific Motor Trucking Company holds an appropriate certificate from said Commission authorizing it to conduct common-carrier business between Portland, Oregon, and San Francisco, California, serving all intermediate points, for the reasons assigned in paragraph 4 and subparagraphs (a), (b), (c), and (d) thereof in the First Defense.

4. Answering paragraph VIII, admits that its operations are and will be competitive with the operations of plaintiffs between certain points but denies each and every other allegation remaining in said paragraph.

5. Answering paragraph X, denies the allegations therein contained.

6. Answering paragraph XI, denies the allegations therein contained.

THIRD DEFENSE

Intervenor alleges that plantiffs are guilty of laches in that: While the petition of the plaintiffs for reconsideration of the order of Division 5 of the Interstate Commerce Commission granting the operating rights sought by this intervenor had been denied by the Interstate Commerce Commission on the 2nd day of August 1943, thereby making the said order the final adjudication of the Interstate Commerce Commission, and thereafter on the 7th day of September 1943, a certificate of public convenience and necessity was issued to this intervenor granting the operating rights sought, plantiffs delayed the filing of this action until on or about January 7, 1944, and service upon the Interstate Commerce Commission was not made until on or about March 3, 1944. In the meantime, this intervenor, through said delay of plaintiffs in starting this action, was led to believe that the final order and report of the Commission and the certificate of public convenience and necessity issued thereunder would not be contested and
82 in reliance thereon, severed its relations with its California connection that enabled it to participate in the transportation of commodities between San Francisco, California, and other California points, on the one hand, and points in Oregon, Washington, Idaho, and Montana now served by this petitioner, on the other. This petitioner does not now know of any connection it could make that would enable it to retain its established business between the aforesaid points. The loss of such business would be irretrievable.

Wherefore, this intervening defendant, Consolidated Freightways, Inc., having fully answered the complaint of plaintiff, prays that the Court dismiss the complaint of plaintiffs herein and award costs of suit to intervenor.

DONALD A. SCHAFER,
Attorney for Intervenor,
Consolidated Freightways, Inc.,
803 Public Service Building, Portland 4, Oregon.

83

AFFIDAVIT OF MAILING

STATE OF OREGON,
County of Multnomah, ss:

I, Alice Doos, being first duly sworn, depose and say: That I am a citizen of the United States and a citizen and resident of the State of Oregon; that I am over 21 years of age; that I am secretary to Donald A. Schafer; that I have no personal interest in the within entitled action.

That on the 15th day of April 1944, I mailed to: Wm. P. Ellis, 212 Masonic Building, Salem, Oregon; Henry T. Ivers, Hoge Building, Seattle, Washington; Alfred A. Hampson, 800 Pacific Building, Portland 4, Oregon, with postage fully prepaid, a true and correct copy of Notice of Motion of Consolidated Freightways, Inc., to Intervene, Motion of Consolidated Freightways, Inc., to Intervene as Defendant, with proposed Answer attached thereto, the originals of which are attached thereto.

ALICE DOOS.

Subscribed and sworn to before me this 15th day of April 1944.

[SEAL] LILLIAN BEAM,
Notary Public for Oregon.

My Com. Expires Jan. 16, 1948.

84 In United States District Court

[Title omitted.]

Notice of motion for leave to intervene

Please take notice that the undersigned will bring the attached motion for intervention on for hearing before the District Court of the United States, for the District of Oregon, in Judge James Alger Fee's court room in the United States Court House, Southwest Sixth Avenue and Main Street, Portland, Oregon, on the 24th day of April 1944, at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard.

Dated at Portland, Oregon, April 15, 1944.

DONALD A. SCHAFER,
Attorney for Applicant for Intervention,
Oregon-Nevada-California Fast Freight, Inc.,
803 Public Service Building, Portland 4, Oregon.

WM. P. ELLIS,
212 Masonic Building, Salem, Oregon.

HENRY T. IVERS,
Hoge Building, Seattle, Washington.

ALFRED A. HAMPSON,
800 Pacific Building, Portland 4, Oregon.

[Endorsed:] Filed April 15, 1944.

85 In United States District Court

[Title omitted.]

Motion for leave to intervene as a defendant

Oregon-Nevada-California Fast Freight, Inc., moves for leave to intervene as a defendant in this action in order to assert the defense set forth in its proposed answer, of which a copy is hereto attached, on the ground that applicant's rights to operate in interstate commerce between Portland, Oregon, and Medford, Oregon, and also between Klamath Falls, Oregon, and Goshen, Oregon, is being attacked, and that the representation of applicant's interest by existing parties may be inadequate and the applicant is bound by a judgment in the action.

DONALD A. SCHAFER,
Attorney for Oregon-Nevada-California Fast Freight., Applicant for Intervention,
803 Public Service Building, Portland 4, Oregon.

86 In United States District Court

[Title omitted.]

Answer of intervenor, Oregon-Nevada-California Fast Freight, Inc.

Filed April 28, 1944

To the Honorable Judges of the District Court of the United States for the District of Oregon:

Comes now intervenor, Oregon-Nevada-California Fast Freight, Inc., and for defenses against the complaint of plaintiffs, denies, affirms, and shows as follows:

I

Intervenor admits the allegations of Paragraphs I, II, and III of the complaint, except that intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments that the carriers therein named hold appropriate certificates from the Interstate Commerce Commission authorizing common-carrier business over the routes therein described, or as to the truth of the averments that business is conducted over the routes therein described for the transportation of general commodities in interstate and foreign commerce by the plaintiffs therein named as common carriers, and, placing its denial on that

ground, denies that the plaintiff carriers therein named do engage in the business of transporting general commodities
87 for hire in interstate and/or foreign commerce as common carriers over the routes therein described, and denies that appropriate certificates therefor are held from the Interstate Commerce Commission authorizing such business.

II

Intervenor admits the allegations contained in Paragraphs IV, V, VI, and VII of the complaint.

III

Intervenor admits the allegation of Paragraph VIII of the complaint that its operations are and will be competitive with the operations of plaintiffs between numerous points and places, and denies each and every other allegation and statement remaining in said paragraph.

IV

Intervenor admits the allegations contained in Paragraph IX of the complaint and adopts by this reference Exhibits A and C attached to said complaint.

V

Intervenor denies each and every allegation and statement contained in Paragraph X of the complaint.

VI

Intervenor denies each and every allegation and statement contained in Paragraph XI of the complaint.

Wherefore, intervenor prays that the Court dismiss the complaint of plaintiffs herein and award costs of suit to intervenor.

BEROL & HANDLER,
EDWARD M. BEROL,
and
MARVIN HANDLER,
DONALD A. SCHAFER,
Attorneys for Intervenor,
Oregon-Nevada-California Fast Freight, Inc.

BEROL & HANDLER,
465 California Street, San Francisco, California.
DONALD A. SCHAFER,
803 Public Service Bldg., Portland 4, Oregon.

(File endorsement omitted.)

88 *Affidavit of mailing*

STATE OF OREGON,
County of Multnomah, ss:

I, Alice Doos, being first duly sworn, depose and say: That I am a citizen of the United States and a citizen and resident of the State of Oregon; that I am over 21 years of age; that I am secretary to Donald A. Schafer; that I have no personal interest in the within entitled action.

That on the 15th day of April, 1944, I mailed to: Wm. P. Ellis, 212 Masonic Building, Salem, Oregon; Henry T. Ivers, Hoge Building, Seattle, Washington; Alfred A. Hampson, 800 Pacific Building, Portland 4, Oregon, with postage fully prepaid, a true and correct copy of Notice of Motion of Oregon-Nevada-California Fast Freight, Inc., to Intervene, Motion of Oregon-Nevada-California Fast Freight, Inc., to Intervene as Defendant, with proposed Answer attached thereto, the originals of which are attached hereto.

ALICE DOOS.

Subscribed and sworn to before me this 15th day of April 1944.

[SEAL] LILLIAN BEAM,
Notary Public for Oregon.

My Com. Expires Jan 16, 1948.

89 In the District Court of the United States for the District of Oregon

No. Civil 2340

PIERCE AUTO FREIGHT LINES, INC., A CORPORATION; LOS ANGELES-SEATTLE MOTOR EXPRESS, A CORPORATION; ANGELO COLLETTI, DOING BUSINESS UNDER THE ASSUMED NAME AND STYLE OF COLLETTI FAST FREIGHT; PACIFIC MOTOR TRUCKING COMPANY, A CORPORATION; AND PACIFIC SOUTHWEST RAILROAD ASSOCIATION, PLAINTIFFS

v.

THE UNITED STATES OF AMERICA, DEFENDANT

INTERSTATE COMMERCE COMMISSION; CONSOLIDATED FREIGHTWAYS, INC., AND OREGON-NEVADA-CALIFORNIA FAST FREIGHT, INC., INTERVENERS

BEFORE WILBUR, Circuit Judge, and FEE and MCCOLLOCH, District Judges

OPINION

September 20, 1944

JAMES ALGER FEE, *District Judge*:

This is an action to set aside and enjoin an order of the Interstate Commerce Commission by which Consolidated Freightways, Incorporated [1] and Oregon-Nevada-California Fast Freight, Incorporated [2] were granted a certificate of public necessity and convenience [3] for certain operations as to which plaintiffs claim that they are, or will be, in competition either in whole or in part. Under other applications, both Consolidated and O. N. C. have been operating as common carriers by motor. Con-
90 solidated operates in many states including California and Oregon, including a route between Twin Falls, Idaho, and San Francisco, California, through Oakland, Sacramento, and Roseville, California. O. N. C. operated also in Oregon and California with the principal route between San Francisco and Medford, Oregon, through Sacramento and Weed, California.

By voluntary agreement of Consolidated and O. N. C., joint through service, for a number of years, was provided by these two carriers between San Francisco and Portland by means of interchange of freight. Some years ago friction developed between the carriers owing largely to the attempt by Consolidated to have a traffic exchange agreement with its connecting carriers which would be known as "Freightways" by all carriers using the service. O. N. C. refused to join. The arrangement has "recently been dissolved as a result of an action brought * * * under the Anti-Trust Act" according to a statement of counsel in argument. (Record of argument before this court, p. 24). Thereafter, Consolidated, apparently piqued by the failure of this scheme, filed applications for a through service from Portland to San Francisco. The first application was filed in January 1940, and the second in May of the same year. Then O. N. C., apparently somewhat unwillingly, itself petitioned for a through service route of its own in January 1940. There were hearings held upon each, the application for Consolidated before joint Board No. 5,[4] and the application of O. N. C. before joint Board No. 11, commencing on July 8, 1940. For convenience of witnesses, the hearings were conducted at the same places and testimony was taken in one proceeding and followed by testimony taken in the other proceeding. A great deal of testimony was stipu-
91 lated from one record into the other. However, the two

[1] Hereinafter referred to as Consolidated.
[2] Hereinafter referred to as O. N. C.
[3] Under provisions of § 207a of the Transportation Act. 49 U. S. C. A. 307.
[4] These joint Boards are authorized by 49 U. S. C. A., § 305.

proceedings were never consolidated and remained separate and distinct. The parties to these separate records were not identical.

The record in each of the hearings was closed on October 29, 1940. Neither of the joint Boards, No. 5 nor No. 11, could agree upon the conclusions or recommendations. Therefore, the matter was placed in the hands of an examiner of the Commission who recommended, thereafter, that neither application be allowed. Exceptions were filed by the respective parties. Over two years after the hearings closed, on March 1, 1943, by a report of Division No. 5, consisting of Commissioners Mahaffie, Rogers and Patterson, it was held, Commissioner Rogers dissenting, that both applications should be granted. Plaintiffs filed with the Commission, a petition for reconsideration and rehearing upon the ground that new evidence showed a substantial change in transportation conditions since the closing of the record including matters resulting from the war emergency and petitioned that the certificates granted be held in abeyance pending rehearing, or in the alternative, that the report of Division 5 be reconsidered and reversed, and the several applications be denied.

On August 2, 1943, this petition was denied, and in September 1943, certificates of necessity and convenience issued respectively to Consolidated and O. N. C. The complaint in this action, to set aside or annul the order, was filed January 13, 1944, hearing was had April 28, 1944, and the record and final briefs were on file June 9, 1944. Thus the matter is now presented upon applications made over four years ago.

This opinion and report of Division No. 5 of the Commission uses language which would indicate that the Commission
92 considered these separate records as though the case were a consolidated one. No differentiation is made in the language of the findings as to whether the supporting evidence is drawn from one record or the other, and in some instances evidence which appeared only in one record is used to support a general finding as to Consolidated and O. N. C. also. This was made the point of attack by the plaintiffs who contend that they had no notice of this species of approach to the problem.[5]

At the outset it should be noted that Division 5, one Commissioner dissenting, arrived at an unexpected, if not startling, result when both applications for through-line operations were granted. Especially was this true after neither joint Board No. 5 nor joint Board No. 11, were able to arrive at an agreement, and an ex-

[5] Reliance is placed on the following cases among others: Interstate Commerce Commission vs. Louisville and Nashville R. R. Co. 227 U. S. 88, 91, 93; Chicago Junction case, 264 U. S. 258; U. S. vs. Abilene & Southern Railway Company, 265 U. S. 274.

perienced examiner had recommended rejection of both applications. But the vice of the position is that the whole basis of the proceedings was the question of whether any through-line operation should be allowed and if so, which one of these two applications. The record was not made upon the basis that two through-line operations might be allowed. Indeed there is no suggestion that such a result was possible until the denouement when the report of Division 5 was announced.

If we visualize the situation, the solution seems more perplexing. At the outset, Consolidated was operating by the valley route to and from Portland and Medford, on one branch, and Klamath Falls on the other. O. N. C. was operating on the valley route from and to Medford, Klamath Falls and San Francisco. At the most, the facilities were present for one through-line operation from Portland to San Francisco. At the
93 stroke of a wand, this is metamorphized into the facilities for two through-line operations. Consolidated will have to furnish the additional equipment, the additional facilities, and the additional personnel to load, unload, operate and obtain business to and from Klamath Falls and Medford, on the one hand, and to San Francisco on the other. O. N. C. will have to furnish the additional equipment, the additional facilities, and the additional personnel to load, unload, operate and obtain business to and from Klamath Falls and Medford on the one hand and Portland on the other. The magnitude of the change is not lessened when we consider the number of intermediate points on each extension which must be served by this new dual operation. Furthermore, being thus competitors throughout the entire route, the carriers can no longer cooperate. From a unified cooperative system, two distinct operations in unlimited competition are created.

But it is said that the Commission has the power in the public interest, to allow both operations. There can be no doubt of this position. Further, if the Commission had considered the question and found the facts, the court should not interfere. The Commission contented themselves with a formal finding as to each applicant that "the public convenience and necessity require operation by the applicant" over the route and between the points indicated. There is doubt that this is a sufficient jurisdictional finding as to the complicated set of facts involved here in turning a cooperative system into two competing through-route operations. The Division did not find anything as to the possibility of each of the applicants furnishing facilities, equipment and personnel to compete with each other over the length of this through-route. The findings as to O. N. C. might establish fitness
94 to maintain a single line operation, but there are no corre-

sponding findings as to Consolidated. Specifically, there are no findings as to the effect of competition in this dual line of operation. The Division did not consider the war-time economies in setting up such separate operations, nor did they make any findings thereon. The record, whether considered as several or joint, lays no basis for such findings.

The Division did not consider, nor did they find whether the shippers, many of whom testified for the carrier with which they did business, would have taken the same stand had they known that they were to deal with competing carriers. Perhaps plaintiffs could have marshaled numerous other witnesses if the solution at which the Division finally arrived could have been foreshadowed.

Not only did the Division fail to find affirmatively upon the vital matter of interest and convenience of the public, but the entire approach to the problem was as though the controversy were ruled entirely by the private interests represented in the record. The predominating color imparted to the report by this attitude may be envisioned by a close view of the following matters. First, it is said the genesis of the difficulties lies in the attempt of Consolidated to force O. N. C. to join "Freightways". The majority of Division 5 seems to have feared that the two carriers might fail to cooperate in the future if the situation developed further along these lines. Then it is indicated that these two carriers handled the bulk of traffic on this route in the cooperative operation at the time of the hearings. Finally, it is said: "For reasons which are obvious, authority should be granted or denied to both applicants to operate over the valley route." Thus the Commission indicated
95 that Consolidated and O. N. C. had proprietary rights in the use of this highway because of previous operations, and that such rights were paramount. As to the fact that O. N. C. has asked for a further hearing before the announcement of the report, the Division say: "But in view of our conclusions herein it is doubtful whether it [O. N. C.] would still desire such further hearing."

The record is replete with evidence of the fact that Consolidated attempted to bring pressure upon O. N. C. and the Commission, by refusing the cooperation required for efficient joint schedules under war conditions. The Commission apparently had no way of enforcing cooperation in the intricate exchanges of freight and functioning of related traffic routes. There is no doubt that O. N. C. was able to bear the weight of an independent through-route from Portland to San Francisco and return, serving intermediate points. The findings of fact of Division 5 do not show that Consolidated is able to establish and maintain such an operation. It is not in the public interest that anyone should have to be coaxed to play ball in the transportation industry.

The entire report is characterized by an approach to the problem as if the interests of Consolidated and O. N. C. were paramount. Further, the Division, without notice to the public and other interested parties, treated the record as though it were a consolidated case, and as though the problem litigated was whether two competitive through-routes could be authorized under existing conditions. As we have seen, the litigants did not treat the hearings as though this question was involved.

The brief of the Interstate Commerce Commission in this case criticizes the plaintiffs for conceiving that the function of the Commission is to protect the granted rights of operation as monopolies. Of course, nothing is better established than the principle that private rights in this field must yield to
96 the public interest. Indeed, it is laid down that, "No certificate issued under this chapter shall confer any proprietary or property rights in the use of the public highways."[6]

This resume of the apparent public interest involved has been made before discussing the position of the plaintiffs. While it is true that problems such as these can only be brought to the courts when private interests conceive there has been injury of rights of property, and although the field of judicial review of administrative determinations has been narrowly confined, the courts must, in a litigated case, be the arbiters of the paramount public interest. Therefore, we now consider the conflicting claims.

The attack of the plaintiffs is based upon the following paragraph of the order of the Commission:

"In finally deciding the questions presented herein, applicants' cases rest on (1) their proposed speed-up of service, (2) their use of mechanically-refrigerated equipment, (3) their service to intermediate points, (4) their proposed single-line service as against joint-line service, and (5) in respect of Consolidated, its proposed through operations between San Francisco and points in eastern Oregon and Washington, between the Coos Bay area and San Francisco over the Coast Route, and to and from Lakeview."

It is said by plaintiffs that the Commission took evidence out of the case upon one application and gave consideration thereto in the case upon the opposite application. Examination of the joint report and the records shows that the evidence commented upon as relating to Consolidated can be from the record in that case. The same observation is pertinent with regard to O. N. C. and
97 the record in that case. Some general matters are referred to which might be pertinent to both records, but these are matters or ordinary observation. The situation of each of

[6] 49 U. S. C. A., § 307 (b); see also North Coast Transportation Co. vs. United States, No. 22528-S, not yet reported.

the plaintiffs was carefullly considered in relation to the particular records in which each was concerned. But nowhere was there consideration of the rights and duties of any plaintiff in relation to competition of two new through-haul lines to and from Portland and San Francisco. As to what effect the failure of the Commission in each proceeding, to consider the effect of granting the application in the other, had upon the ultimate conclusions arrived at in the consolidated proceeding, there is no means of judging. The approach was erroneous. Many instances can be quoted from the report to show that the finding, or conclusion, was based upon the records of the two proceedings without discrimination. Under these circumstances, no presumption should apply. Cf. United States vs. Chemical Foundation, 272 U. S. 1, 14–15. The fact that the Commission might make similar final orders upon consideration of the separate records, and in the light of the situation as affected by two new competitive routes, is beside the point. A fair trial is not accorded by the method of approach here used. Kline vs. United States, 41 F. Supp. 577. No notice was given of the attempted conversion of an adversary proceeding by two applicants to establish a basis for one through line operation into a consolidated proceeding where both applications were granted. Interstate Commerce Commission vs. Louisville & Nashville R. R. Co., 227 U. S. 88, 91, 93; Chicago Junction Case, 264 U. S. 258; United States vs. Abilene & So. Ry. Co., 265 U. S. 274; Morgan vs. United States, 298 U. S. 468; Ohio Bell Telephone Co. vs. Pub. U. Comm., 301 U. S. 292. When Division 5 accomplished the metamorphosis of the proceeding, the obligation to preserve the essentials of fair trial was violated because no opportunity was given plaintiffs to maintain their rights or present a defense to installations of which none had notice. See United States vs. Baltimore & Ohio S. W. R. Co., 226 U. S. 14.

The plaintiffs object to the lack of jurisdictional findings.
98 It has already been pointed out above that no such findings were made in relation to the necessity of establishing two new through operations in competition with each other and in competition with plaintiffs. The general conclusions of ability are supported by findings in the case of O. N. C., but are not at all supported by facts found relative to Consolidated. The vice of drawing conclusions from the two records results in a lack of jurisdictional findings on the essential factor that it was necessary and convenient in the public interest, and in the face of facilities furnished by plaintiffs, to initiate two new through-lines. Such a finding was an essential.

As far as the plaintiffs were concerned, the interests of each was given thorough consideration by the Division and the report contains complete findings as to the facilities and situation of each in respect to the conditions dealt with in the record. However, plaintiffs are not in any wise estopped from raising the matters upon which attack has been made as the questions are charged with the public interest.

The plaintiffs contend that the Commission should have granted a rehearing because of the age of the record, freezing statements of fact at a period of almost four years ago, and prior to the beginning of an emergency which may now be approaching an end, in a field where conditions have actually changed at unprecedented speed. Specific attention is directed to the basis of the order above quoted. It is true that the speedy schedules used by the Commission and cited by the order as one of the advantages of two through-lines, must be the subject of controversy. The question of whether the plaintiffs might not meet the schedules under other conditions is debatable. The presence or absence and use of mechanical refrigeration has no obvious relation to the war needs of the nation. The service to intermediate points is of course dependent upon the amount of equipment and personnel available. The dis-
99 advantage of joint-line service due to lack of cooperation may not be a factor under present circumstances, but might be considered in permitting one through-line service of either O. N. C. or Consolidated.

The denial of the rehearing, although by a full Commission, was without opinion. The situation is entirely different from that reflected in Interstate Commerce Commission vs. The City of Jersey City, No. 767, October Term 1943, May 29, 1944. The consideration and reconsideration by the Commission indicated by the opinion of the court in that cause, was notable. But nothing was there shown which reflects a condition comparable to four years of changed elements in motor transport on the Pacific slope under the strain of war emergencies in the Pacific and under stress of wartime needs and economies.

This court has not before it sufficient data to determine whether or not the changes which have occurred in this field do actually affect the public interest and convenience. Suffice it to say, that it is apparent to all, these changes are kaleidoscopic and vital in nature. Before these changes have arrived at climaxes, and before the lines of force have been established, it is difficult to say how the Commission can now determine that it is in the public interest to establish such competing operations. By the time relative stability returns to this confused field, it may be that public interest will demand more or less competing lines on through-

routes, and the situation may require that the certificates be granted to these or other operators.

Nevertheless, this is not an attempt by the court to find the facts, but simply an attempt to determine whether the Commission so found them. However, in a like situation the Supreme Court of the United States, in the public interest, set aside
100 an order of the Commission because great changes had taken place in the field since the time of their findings. The Supreme Court has not said that Atchison, Topeka & Santa Fe Ry. Co. vs. United States, 284 U. S. 248, would never be followed. The record in this case might require the application of that doctrine here. If the Commission had simply held renewed hearings and found upon the changed facts, and upon notice to the parties that the question of two new separate lines was to be considered, the court, as well as everyone, might well have been satisfied that they intended to find that the public interest as now established, demanded the changes. It must be remembered that this record was submitted in October, 1940, over three years ago, and it would seem to the court that it might be well for the Commission, at this time, to reconsider its order in the light of the facts as they now exist.

We do not know the answers to the factual questions thus posed, nor are we competent to answer them. It is apparent that in using the elements involved in an entirely new functional capacity, a different combination of delicate relationships would be involved, and the Division did not expressly find how such relationships would comport with the public interest. Because of this failure to give all parties a fair trial as to the authorization of two new through-lines in competition with each other, and the existing facilities, and because of their failure to make jurisdictional findings embodying such factors and specifically the ability of Consolidated to operate a through-line in competition with O. N. C., and other facilities, and finally because of their failure to consider the public interest as opposed to the interests of the favored carriers, the cause should be reconsidered by the Commission.
101 This court has power to suspend the order of the Commission[7] and to remand the matter to them for rehearing.[8] This action will be taken in order that all parties may be placed on notice as to what type hearing will be held, whether joint or several, and in order that appropriate findings be made as to the public convenience and necessity which requires the authorization of two new through-lines in competition with each other and in

[7] 28 U. S. C. A., § 46.
[8] See United States vs. Atlanta, Birmingham & Coast Ry. Co., 282 U. S. 522.

competition with the other facilities, and also as to the ability of Consolidated to initiate and maintain one of such lines in view of present conditions.

The order is suspended until the designated action may be taken by the Commission.

[Endorsed: Filed September 20, 1944.]

102 In the District Court of the United States for the District of Oregon

Civil 2340

PIERCE AUTO FREIGHT LINES, INC., A CORPORATION; LOS ANGELES-SEATTLE MOTOR EXPRESS, A CORPORATION; ANGELO COLLETTI, DOING BUSINESS UNDER THE ASSUMED NAME AND STYLE OF COLLETTI FAST FREIGHT; PACIFIC MOTOR TRUCKING COMPANY, A CORPORATION; AND PACIFIC SOUTHWEST RAILROAD ASSOCIATION, PLAINTIFFS

vs.

THE UNITED STATES OF AMERICA, DEFENDANT

INTERSTATE COMMERCE COMMISSION; CONSOLIDATED FREIGHTWAYS, INC., AND OREGON-NEVADA-CALIFORNIA FAST FREIGHT, INC., INTERVENERS

Before WILBUR, Circuit Judge, and FEE and McCOLLOCH, District Judges

Memorandum opinion

November 10, 1944.

JAMES ALGER FEE, District Judge:

Since the announcement of the opinion in the above entitled cause, there has been submitted a proposed findings of fact and conclusions of law and decree by the attorneys for the plaintiffs. In accordance with the opinion, the proposed form of decree recites that the order of the Interstate Commerce Commission is suspended; that the order so entered by the Interstate Commerce Commission is remanded to and will stand for further hearing before the Commission. It is there provided:

"It is further ordered, adjudged and decreed that the suspension of said order of the Interstate Commerce Commission dated April 19, 1943, be and remain in full force and effect until the Interstate Commerce Commission on rehearing shall have taken the action designated to be taken by it in the opinion of this

Court dated, entered and filed in this cause on September 20, 1944."

103 Before the time that these findings of fact and conclusions of law were entered, there was filed in this court "Defendants' petition for stay of effectiveness of the court decree to be entered under the court opinion entered September 20, 1944, and of injunction therein to be provided, pending appeal to and decision by the Supreme Court of the United States." This petition entirely misses the point in that it contemplates the issuance of an injunction by this court, and likewise that the decree will annul, set aside and enjoin the order of the Interstate Commerce Commission.

As was indicated in the original opinion, this court has power under the statute to suspend an order of the Commission. By the opinion of this court it was held that the order would be suspended until the Interstate Commerce Commission had reheard the matter, giving the parties an opportunity to cover all of the issues which, it is indicated by the opinion, the Interstate Commerce Commission improperly failed to give notice of and to adjudicate. Among these questions were those relating to the operation of two independent competing lines and the effect upon both the plaintiffs and the operating interveners. The court also held that on the stale record the Interstate Commerce Commission had not given consideration to the changed conditions caused by the existence of the war emergency. In the brief which has been filed to accompany the petition for stay, a great point is made of the fact that no change should be made in the conditions of the operating carriers because of the war emergency. Inasmuch as the court founded the order of suspension and the opinion on this factor, obviously there is no intention of the court to itself make changes in the status quo until the time that the rehearing has been held by the Interstate Commerce Commission.

Notwithstanding the fact that the plaintiffs have now filed a consent to the issuance of the stay order provided the defendants appeal promptly, the petition for stay is denied as prematurely filed and the court enters the decree in the form heretofore submitted. This will effect no change in the status quo up until the time the matter has been reheard by the Interstate Commerce Commission and appropriate order entered thereon since no injunction is contained in the decree. If, in the meantime, an appeal is perfected and the Interstate Commerce Commission justifiably delays the rehearing until the outcome of the appeal be known and the order of this court is set aside by the Supreme Court of the United States, there will be no change in the present situation. But if the order of this court be affirmed, the Commis-

sion will be obligated to proceed to a rehearing and reconsideration. Thereafter, if on rehearing and reconsideration upon proper notice as required by the provisions of the opinion of this court, the Interstate Commerce Commission does not modify its order, appropriate proceedings will be necessary to review that action if any of the aggrieved parties so desire.

[Endorsed: Filed February 5, 1945.]

104 In the District Court of the United States

[Title omitted.]

Findings of fact and conclusions of law

Filed Feb. 6, 1945

This cause came on to be heard on the 28th day of April, 1944, before the Honorable Curtis D. Wilbur, Circuit Judge, the Honorable James Alger Fee, District Judge, and the Honorable Claude McColloch, District Judge, all the parties thereto, plaintiffs, defendant and interveners, appearing therein, and the record before the Interstate Commerce Commission and the order of said Commission to enjoin which order this action was brought all having been submitted, and the parties through their respective counsel having argued the facts, orally and upon written briefs, and the said Court having duly considered said record, said arguments and said briefs, and thereupon having become fully advised and thereafter having made, entered and filed herein its opinion dated September 20, 1944, and now being fully advised in the premises, does hereby make and enter the following as and for its

FINDINGS OF FACT

I

Plaintiff Pierce Auto Freight Lines, Inc., is an Oregon corporation with its principal office and place of business in the State of Oregon. It is engaged in the transportation of general commodities for hire in interstate and foreign commerce as a common carrier by motor vehicle over U. S. Highway 99, 99-E, 99-W, and connecting highways and over alternate routes between Portland, Oregon, and San Francisco, California, serving all
105 intermediate points. Said plaintiff is a motor carrier, as defined by the Motor Carrier Act 1935, as amended, is subject to the jurisdiction of the Interstate Commerce Commission, and holds an appropriate certificate from said Commission duly

authorizing it to conduct said transportation business over said route.

II

Plaintiff Los Angeles-Seattle Motor Express is a Washington corporation, with its principal place of business in Seattle, Washington. Plaintiff Angelo Colletti is an individual doing business under the assumed name and style of Colletti Fast Freight. Said last two named plaintiffs are engaged in the business of transporting general commodities for hire in interstate and foreign commerce by motor vehicle as common carriers over U. S. Highways 99, 99–E, 99–W, and connecting highways, and over alternate routes between Seattle, Washington, and Portland, Oregon, on the one hand and San Francisco, California, on the other hand. Said plaintiffs are motor carriers as defined by the Federal Motor Carrier Act 1935, as amended, are subject to the jurisdiction of the Interstate Commerce Commission and hold appropriate certificates from said Commission duly authorizing them to conduct said common carrier business over the highways aforesaid.

III

During all times mentioned herein prior to September 30, 1942, Pacific Truck Express was an Oregon corporation, with its principal place of business in Portland, Oregon, and was engaged in the transportation of general commodities for hire in interstate and foreign commerce by motor vehicle as a common carrier over U. S. Highways 99, 99–E, 99–W, and connecting highways, and over alternate routes between Portland, Oregon, and San Francisco, California, serving all intermediate points. Effective December 30, 1942, the said Pacific Truck Express was lawfully merged into Plaintiff Pacific Motor Trucking Corporation, a California corporation, with its principal place of business in San Francisco, California, and the Interstate Commerce Commission by appropriate order entered December 29, 1942, authorized the merger of the operating rights and properties of Pacific Truck Express and the plaintiff Pacific Motor Trucking Company, and ever since December 30, 1942, plaintiff Pacific Motor Trucking Company has been and is now the successor in interest of said Pacific Truck Express with respect to all rights and interests of said Pacific Truck Express which are involved in this litigation. Said Pacific Truck Express was and plaintiff Pacific Motor Trucking Company is a motor carrier as defined by the Federal Motor Carrier Act of 1935, as amended, and as such was and is subject to the jurisdiction of the Interstate Commerce Commission, holding an appropriate certificate or certificates from said Commission

duly authorizing the common carrier business above mentioned over the aforesaid route.

IV

106 Plaintiff Pacific Southwest Railroad Association is a voluntary association embracing in its membership the Class I railroads serving the Pacific Southwest, including, among others, the Southern Pacific Company. The principal place of business of said association is San Francisco, California. Southern Pacific Company is a railroad as defined by the Interstate Commerce Act, as amended, and is engaged, among other things, in the operation of a common carrier railroad extending between Portland, Oregon, and San Francisco, California. Said line of railroad parallels generally the highway routes above described and serves in large part the points and places along and upon said highways routes.

V

The intervener, Consolidated Freightways, Inc., hereinafter called "Consolidated", is a corporation which operates as a common carrier of commodities in interstate and foreign commerce by motor vehicle in many states, including the states of California and Oregon, including a route between Twin Falls, Idaho, and San Francisco, California, through Oakland, Sacramento, and Roseville, California. Intervener Oregon-Nevada-California Fast Freight, Inc., hereinafter called "O. N. C.", is a corporation engaged in transportation of commodities in interstate and foreign commerce by motor vehicle in the States of Oregon and California, with its principal route between San Francisco, California, and Medford, Oregon, through Sacramento and Weed, California.

VI

This action was brought against the United States of America under the Act of Congress approved October 22, 1913, to enjoin, set aside, and annul a certain order entered by the Interstate Commerce Commission, hereinafter called the "Commission," on the 1st day of March, 1943. Said order, dated March 1, 1943, is hereinafter called "the Commision's order." The Commision's order was based upon certain findings of fact and conclusions of law, included within a written Report rendered by a majority of a division of the Commission, administratively known as Division No. 5, and said Report was a part of the record before the court. The action was also brought to set aside certain Certificates of Public Convenience and Necessity issued by the Commission to Consolidated and O. N. C. upon the 7th and 15th days of September, 1943, respectively, as described in the Commission's order.

VII

The Commision's order and the Certificates hereinbefore referred to purport to grant to Consolidated, among other operating rights, the right to transport general commodities in the interstate and foreign commerce between San Francisco, California, and Klamath Falls, Oregon, via U. S. Highways 40, 99–W, 99–E, 99, and 97, and between San Francisco, California and Medford, Oregon, via U. S. Highways 40, 99–W, 99–E, and 99. Said order and Certificates purport to grant to O N. C., among other operating rights, the right to transport general commodities in interstate and foreign commerce between Medford, Oregon, and
107 Portland, Oregon, over U. S. Highways 99, 99–E, and 99W; also from Medford, Oregon, to Portland, Oregon, over U. S. Highways 99 and 99–W, Oregon Highway 2 and Oregon Highway 10; also between Klamath Falls, Oregon, and Goshen, Oregon, over U. S. Highway 97, and Oregon Highway 58.

Such proposed operations are and will be directly competitive with the operations of plaintiffs between numerous points and places.

VIII

Consolidated filed the applications which were considered and determined by the Commission in its said Report and in the Commission's order in January and May, 1940, and O. N. C. filed its application, which was likewise considered and determined by the Commission in its said Report and in the Commission's order, in January, 1940.

The applications of Consolidated were heard before Joint Board No. 5, and the applications of O. N. C. were heard before Joint Board No. 11, commencing July 8, 1940. The plaintiffs herein, among others, appeared at said hearings, as they had the lawful right to do, as protestants. The two hearings were separate, and separate records were made in each, and they were never consolidated. The two hearings were conducted at the same place, but testimony was taken in one proceeding and thereafter testimony was taken in the other proceeding. The parties to these two proceedings weer not identical. A substantial amount of testimony was stipulated from one record into the other record, and such testimony was physically incorporated into the record in which the stipulations were made. The two hearings were recessed from time to time and the separate records in each proceeding were closed on October 28, 1940.

Neither of the Joint Boards could agree upon the conclusions of recommendations which should be made to the Commission, and the separate records were thereafter referred to an Examiner of

the Commission who made separate recommendations as to each. The recommendations of the Examiner in each instance were that the application should be wholly denied.

Each applicant, Consolidated and O. N. C., filed exceptions separately to the recommendations of the Examiner and thereafter the plaintiffs herein, in their capacity as protestants, filed replies to such exceptions separately in each proceeding.

Thereafter and on March 1, 1943, the Report aforementioned was prepared by Division No. 5 of the Commission, consisting of Commissioners Mahaffie, Rogers, and Patterson, and it was held and determined in said Report, Commissioner Rogers dissenting, that both applications should be granted. The Commission's order was thereafter entered granting both applications in the same order.

On April 6, 1943, protestants, in conformity with the rules of the Commission, filed a petition with the Commission for
108 reconsideration and rehearing upon the ground that new evidence showed a substantial change in transportation conditions since the closing of the records, including matters resulting from the war emergency, and petitioned that the Certificates authorizing the operations be held in abeyance pending rehearing, or, in the alternative, that the Report of Division No. 5 be reconsidered and reversed and the applications be denied.

On August 2, 1943, the said petition for reconsideration was denied by the whole Commission without any opinion or statement of reasons therefor. In September, 1943, Certificates of Public Convenience and Necessity authorizing the operations by Consolidated and O. N. C. were issued separately to Consolidated and O. N. C. by the Commission.

This action was commenced January 13, 1944, hearing was held April 28, 1944, and final briefs filed June 19, 1944.

IX

The whole basis of the original proceedings before the Joint Boards was the question of whether any through-line operation between San Francisco and Portland should be allowed and, if so, which one of the two separate applications. No notice was given to plaintiffs, or to other protestants, or to the general public, or to the witnesses who testified before the Joint Boards to the contrary. The records upon which the Commission's order and the Report of Division 5 are based were not made upon the basis that two through-line operations might be allowed. There was no suggestion to anyone that such a result was possible until the Commission's order was served upon the interested parties.

The Commission's order and the certificates of Public Convenience and Necessity issued to Consolidated and O. N. C. aforesaid authorize both Consolidated and O. N. C. to engage in competition with the existing lawful operations of plaintiffs between numerous points and places.

X

The Commission considered the separate records as though the case was a consolidated one. Evidence which appeared only in one record was used by the Commission to support general findings in the Report concerning both Consolidated and O. N. C. In each proceeding embraced within the Report and the Commission's order, evidence not offered or received in such proceeding and not a part of the record therein was drawn upon and considered by the Commission. The findings and conclusions in the separate proceedings are so commingled in the single report as to make it impossible to determine therefrom which record gives support to them.

XI

There is no evidence in the records to support the Commission's finding that the present and future public convenience and necessity require both the operations.

109

XII

The Commission failed to find, and there was no evidence in either record to support such a finding, that each applicant was separately capable of equipping, maintaining, and conducting the proposed operation in the face of competition from the other.

XIII

The Commission failed to find, and there is no evidence in either record to support such a finding, that Consolidated is adequately equipped to establish and maintain the proposed through-line operations under any conditions.

XIV

The Commission's Report fails to disclose that it gave any consideration to the possibility of adverse effect upon any plaintiff of the institution of two through-line competitive operations between San Francisco and Portland.

XV

No evidence was offered or submitted by any party nor requested or taken by the Commission or by said Joint Boards as to the rights and duties of any plaintiff or the effect upon the rights, duties, or property of any plaintiff of the institution of two through-line competitive operations between San Francisco and Portland. And no plaintiff had a reasonable or fair opportunity to anticipate the necessity for the submittal of evidence as to such effect upon plaintiffs' rights, duties, and property.

XVI

Many witnesses representing the shipping and receiving public appeared at said hearings and testified on behalf of Consolidated, O. N. C. and the protestants (including plaintiffs) and on behalf of the public generally. Neither such witnesses nor the general public had any notice prior to the said hearings, or at any time before the Commission's order was issued, that it was possible or probable that two through-line operations in competition with each other and with the plaintiffs and other existing transportation agencies might be authorized by the Commission as the result of such proceedings.

XVII

No opportunity was given to plaintiffs to maintain their rights or to present appropriate protests and defenses to the institution of two competing through-line operations between San Francisco and Portland.

XVIII

Since October 29, 1940, great changes have occurred in the field of transportation in the area affected by the proposed operation.

110 Now, therefore, based upon the record and files herein, the foregoing findings of fact and the law of the case, the court now makes and enters the following as its

CONCLUSIONS OF LAW

I

This court has jurisdiction of the cause and of the parties.

II

That plaintiffs were deprived of a fair trial before the Commission.

III

The failure of the Commission to make findings as to the ability of Consolidated to operate a through-line in competition with O. N. C. and in competition with the plaintiffs is a material jurisdictional defect.

IV

The failure of the Commission to consider the public interest, as opposed to the convenience and necessity of Consolidated and O. N. C. is a material jurisdictional defect.

V

The court has power to suspend the Commission's order and the Certificates of Public Convenience and Necessity issued thereunder, and to remand the cause to the Commission for rehearing.

VI

The Commission's order, dated March 1, 1943, and the Certificates of Public Convenience and Necessity issued to Consolidated and O. N. C. thereunder should be suspended and the matter remanded to the Interstate Commerce Commission for rehearing.

Dated this 5th day of February 1945.

(Sgd.) CURTIS D. WILBUR,
Circuit Judge.
JAMES ALGER FEE,
District Judge.
CLAUDE MCCOLLOCH,
District Judge.

[File endorsement omitted.]

111 In the District Court of the United States

[Title omitted.]

Decree

Filed Feb. 6, 1945

This cause came on to be heard on the 28th day of April, 1944, before the Honorable Curtis D. Wilbur, Circuit Judge, the Honorable James Alger Fee, District Judge, and the Honorable Claude McColloch, District Judge, and was argued by counsel. There-

after said Court, so constituted, made and rendered its Findings of Fact and Conclusions of Law in said cause and said findings and conclusions so made having been entered of record herein;

Now upon consideration thereof, it appearing that on the 19th day of April 1943, the Interstate Commerce Commission made and rendered its order in causes then and there pending before said Interstate Commerce Commission, said causes being entitled and bearing Docket Numbers as follows: Consolidated Freightways, Inc.—Extension, Klamath Falls, Oregon, MC–42487 (Sub. No. 15), Consolidated Freightways, Inc.—Extension, Lakeview, MC–42487 (Sub. No. 18), Consolidated Freightways, Inc.—Extension, Marshfield, MC–42487 (Sub. No. 19), Consolidated Freightways, Inc.—Extension, MC–42487 (Sub. No. 20) and Oregon-Nevada-California Fast Freight, Inc., Extension—Portland, MC–9115 (Sub. No. 1), by which order Consolidated Freightways, Inc. and Oregon-Nevada-California Fast Freight, Inc., were authorized to conduct certain common carrier operations by motor vehicle in interstate and foreign commerce; and

It further appearing that thereafter and on the 7th day of September 1943, there was issued to Consolidated Freightways, Inc., a certain Certificate of Public Convenience and Necessity, and thereafter and on the 15th day of September 1943, there was issued to Oregon-Nevada-California Fast Freight, Inc., a certain Certificate of Public Convenience and Necessity, which said Certificates of Public Convenience and Necessity covered the same operations authorized by the Interstate Commerce Commission in its said order of April 19, 1943; and

112 It appearing to the Court that the order of the said Interstate Commerce Commission of April 19, 1943, was and is unlawful and void;

Now, therefore, it is ordered, adjudged and decreed that said order of said Interstate Commerce Commission of April 19, 1943, and said Certificate of Public Convenience and Necessity issued to Consolidated Freightways, Inc., under date of September 7th, 1943, and said Certificate of Public Convenience and Necessity issued to Oregon-Nevada-California Fast Freight, Inc., under date of September 15th, 1943, be and each thereof hereby is suspended.

It is further ordered, adjudged, and decreed that said proceedings, to wit Consolidated Freightways, Inc.—Extension, Klamath Falls, Oregon, MC–42487 (Sub. No. 15), Consolidated Freightways, Inc.—Extension, Lakeview, MC–42487 (Sub. No. 18), Consolidated Freightways, Inc.—Extension, Marshfield, MC–42487 (Sub. No. 19), Consolidated Freightways, Inc.—Extension, MC–42487 (Sub. No. 20) and Oregon-Nevada-California Fast Freight,

Inc., Extension—Portland, MC–9115 (Sub. No. 1), on which said order of the Interstate Commerce Commission dated April 19, 1943, was entered by the Interstate Commerce Commission, be remanded to and stand for further hearing before said Commission.

It is further ordered, adjudged, and decreed that the suspension of said order of the Interstate Commerce Commission dated April 19, 1943, be and remain in full force and effect until the Interstate Commerce Commission on rehearing shall have taken the action designated to be taken by it in the opinion of this Court dated, entered and filed in this cause on September 20, 1944.

Dated this 5th day of February 1945.

(Sgd.) CURTIS D. WILBUR,
Circuit Judge.

(Sgd.) JAMES ALGER FEE,
District Judge.

(Sgd.) CLAUDE MCCOLLOCH,
District Judge.

[File endorsement omitted.]

113 In United States District Court

[Title omitted.]

Order staying effect of decree pending appeal to the Supreme Court of the United States

Filed Feb. 21, 1945

Defendant United States of America and interveners Interstate Commerce Commission, Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight, Inc., have petitioned for a stay of the effect of this Court's decree, entered herein February 6, 1945, pending their appeal to the Supreme Court of the United States, and the Court having considered the said petition and having authority, within its discretion, to stay its decree, and defendants having indicated their purpose to perfect such appeal within the time allowed by law, and it appearing that such stay is necessary to preserve the status quo of the subject matter involved in this suit and that irreparable damage to interveners and disruption of existing public common carrier services would otherwise result, and it appearing that plaintiffs herein have filed a written statement with this Court expressing themselves as being not opposed to the grant of such a stay pending appeal, and the

Court having decided to grant defendant's petition for said stay, now, therefore,

114 It is ordered that the decree of this Court, entered in this suit February 6, 1945, suspending Certificates of Public Convenience and Necessity issued by the Interstate Commerce Commission to interveners under dates September 7th and 15th, 1943, be stayed pending appeal to the Supreme Court of the United States and pending final decision upon said appeal by said Supreme Court, this stay being conditioned, however, upon filing and perfecting of such appeal from the decree herein within the time allowed by law and the rules of the Supreme Court, and, in the event that such appeal is not taken with the time so allowed, then, upon the expiration of such appeal period, the said decree of February 6, 1945, shall immediately take effect.

Dated this 15th day of February 1945.

CURTIS D. WILBUR,
United States Circuit Judge.

CLAUDE MCCOLLOCH,
United States District Judge.

JAMES ALGER FEE,
United States District Judge.

[File endorsement omitted.]

115 In United States District Court

[Title omitted.]

Petition for appeal

Filed April 3, 1945

The United States, the Interstate Commerce Commission, Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight, Inc., defendants in the above-entitled cause, feeling themselves aggrieved by the final decree of the District Court of the United States for the District of Oregon, entered in said court on February 5, 1945, pray an appeal from said decree to the Supreme Court of the United States.

The particulars wherein they consider the decree erroneous are set forth in the Assignment of Errors accompanying this petition and to which reference is hereby made.

Said defendants pray that a transcript of the record, proceedings and papers on which said decree was made and entered, duly

116 authenticated, be transmitted forthwith to the Supreme Court of the United States.

David O. Mathews,
DAVID O. MATHEWS,
Special Assistant to the Attorney General.

Allen Crenshaw,
ALLEN CRENSHAW,
Attorney,
Interstate Commerce Commission.

Donald A. Schafer,
DONALD A. SCHAFER,
Attorney for Consolidated Freightways, Inc.,
803 Public Service Bldg., Portland, Ore.

Edward M. Berol,
EDWARD M. BEROL,
Attorney for Oregon-Nevada-California Fast Freight, Inc.,
465 California St., San Francisco, Cal.

Wendell Berge,
WENDELL BERGE,
Assistant Attorney General.

Daniel W. Knowlton,
DANIEL W. KNOWLTON,
Chief Counsel,
Interstate Commerce Commission.

[File endorsement omitted.]

117 **In United States District Court**

[Title omitted.]

Notice of appeal

Filed April 5, 1945

To PIERCE AUTO FREIGHT LINES, INC., LOS ANGELES-SEATTLE MOTOR EXPRESS, ANGELO COLLETTI, PACIFIC MOTOR TRUCKING COMPANY, and PACIFIC SOUTHWEST RAILROAD ASSOCIATION, Plaintiffs, and INTERSTATE COMMERCE COMMISSION, CONSOLIDATED FREIGHTWAYS, INC., and OREGON-NEVADA-CALIFORNIA FAST FREIGHT, INC., Interveners.

Please take notice that, pursuant to the statutes and rules of court in such case made and provided, the United States, the Interstate

Commerce Commission, Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight, Inc., defendants in the above entitled cause, do hereby appeal to the Supreme Court of the United States from the final order and decree of the District Court of the United States for the District of Oregon, made and entered on February 5, 1945, setting aside the Commission's report and order of March 1, 1943, in Consolidated Freightways, Inc., Extension—Klamath Falls, Oreg.,-San Francisco, Calif.,
118 No. MC–42487 (Sub. No. 15), Extension—Lakeview (Sub. No. 18), Extension—Marshfield (Sub. No. 19), and Extension—Medford (Sub. No. 20); and Oregon-Nevada-California Fast Freight, Inc., Extension—Portland, No. MC–9115 (Sub. No. 1), decided in the one report and order of March 1, 1943, wherein the Commission found that both Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight, Inc., were fit, willing and able to perform the services proposed in their respective applications, and that present and future public convenience and necessity required operations of applicants, as common carriers by motor vehicle, in interstate and foreign commerce, and to extent of authority granted to each, that to Consolidated Freightways, Inc., for general commodities, except liquid petroleum products in bulk in tank trucks, and except household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M. C. C. 467, between San Francisco, Calif., and Klamath Falls, Oreg., between San Francisco, Calif., and Medford, Oreg., and between Redding, Calif., and Lakeview, Oreg.; and to Oregon-Nevada-California Fast Freight, Inc., for general commodities, except articles of extraordinary value (other than ore concentrates), liquids in bulk, dangerous explosives, livestock, machinery requiring special equipment for handling, household goods as defined in Practices of Motor Common Carriers of Household Goods, supra, and assembled automobiles, between Medford, Oreg., and Portland, Oreg., over routes designated in Appendix B, Route 1 (a) and (c), and between Klamath Falls, Oreg., and Goshen, Oreg., all as to both applicants over the routes designated in the Commission report of March 1, 1943. Under said order of March 1, 1943, issuance of certificates to said applicants, authorizing operations granted, was provided, and such certificates were thereafter issued, that to Consolidated Freightways, Inc., on September 7, 1943, and that

119 to Oregon-Nevada-California Fast Freight, Inc., on September 15, 1943.

David O. Mathews,
DAVID O. MATHEWS,
Special Assistant to the Attorney General.

Allen Crenshaw,
ALLEN CRENSHAW,
Attorney, Interstate Commerce Commission.

Donald A. Schafer,
DONALD A. SCHAFER,
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803 Public Service Bldg., Portland, Ore.

Edward M. Berol,
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465 California St., San Francisco, Cal.

Wendell Berge,
WENDELL BERGE,
Assistant Attorney General.

Daniel W. Knowlton,
DANIEL W. KNOWLTON,
Chief Counsel, Interstate Commerce Commission.

[File endorsement omitted.]

120 In United States District Court

[Title omitted.]

Assignment of errors

Filed April 3, 1945

Now come the United States, the Interstate Commerce Commission, Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight, Inc., defendants in the above-entitled cause, by their counsel and in connection with their appeal, and file the following assignment of errors upon which they will rely in the prosecution of their appeal to the Supreme Court of the United States, from the final decree of this court, entered February 6, 1945.

The District Court erred:

1. In not dismissing plaintiffs' complaint.

2. In setting aside and suspending the Interstate Commerce Commission order of March 1, 1943.

3. In making and entering its findings of fact and conclusions of law.

4. In deciding that findings of the Interstate Commerce Commission, in its report and order of March 1, 1943, are not supported by substantial evidence.

121 5. In holding that the court has authority to decide whether a proposed motor carrier service, is or is not required by public convenience and necessity, and to substitute its judgment for the Commission decision thereon.

6. In holding that the Commission considered the two applications as consolidated, intermingled the evidence of the two records in that consideration, and based its decision, in each instance, on one application, upon evidence taken from the other record.

7. In holding that a finding was legally necessary, to the effect that both operations, as proposed in the two separate applications, were required by public convenience and necessity.

8. In holding that the Commission failed to find that each applicant was fit, willing and able to conduct the service proposed by each, and that such a finding must include a finding in respect to each applicant, that each separately was capable of performing the proposed service in competition with the other.

9. In holding that the Commission failed to find that the Consolidated Company was fit, willing, and able to perform the service it proposed, and that there was no evidence of record to support such a finding.

10. In holding that the Commission failed to give consideration to the effect upon plaintiffs, of the institution of two through-line competitive operations between San Francisco and Portland, and that such consideration was necessary under the statutory provisions.

11. In holding that no evidence was offered, in the proceedings, as to right of any plaintiffs, or effect upon those rights, in the institution of two through-line competitive operations between San Francisco and Portland, and that plaintiffs had no reasonable opportunity to anticipate necessity for submitting evidence as to such effect.

12. In holding that the Commission must consider any other questions in regard to the two separate applications, than that of fitness, willingness, and ability of each applicant to render the service proposed by each, and that such services were, each separately considered, required by public convenience and necessity.

13. In holding it necessary to give specific notice to witnesses at hearings and the general public, that two through-line operations between San Francisco and Portland, in competition with each

other and with competing plaintiffs, could or might be granted under the two separate applications, where each application separately applied for authority, which, in effect, would permit each to conduct such through-line service, and in holding that the witnesses had no notice that such a result was possible or probable.

122 14. In holding that plaintiffs were given no opportunity to maintain their rights or to defend against the granting of two through-line services, between San Francisco and Portland, where the two separate applications each separately proposed a service, on the basis of public convenience and necessity, which if granted, would authorize such through line service.

15. In holding that changes occurring after hearings which closed in October 1940, and prior to the Commission order of March 1, 1943, due to the war emergency, required a rehearing and reconsideration, by the Commission, upon such changed conditions, the denial of which constituted error.

16. In holding that plaintiffs were denied a fair trial before the Commission.

17. In holding that the Commission failed to make findings, as to ability of Consolidated to operate a through-line service in competition with O-N-C, and with plaintiffs.

18. In holding that the Commission failed to consider the public interest, as opposed to the convenience and necessity of the two applicants.

19. In holding that the Commission order of March 1, 1943, and the certificates issued thereunder to the two applicants, should be suspended.

20. In holding that matters considered in the proceedings should be remanded to the Commission for rehearing.

21. In holding that the basis of the original proceedings, under the two separate applications, was whether any through line operation between San Francisco and Portland, should be granted, and if so, which one of the two separate applications should be granted.

22. In holding that findings and conclusions stated in the Commission report, deciding the two separate applications, were so commingled as to make it impossible to determine therefrom, which record gives support to them.

23. In striking from the answer of defendant Consolidated Freightways, Inc., its affirmative defense, as alleged in its answer, that unnecessary delay in filing of the action would result in irreparable damage to said defendant, if thereunder the Commission order of August 2, 1943, should be enjoined, since the action

was not filed until long after the said order became effective, the certificate therein granted had been issued and the operations therein authorized had been instituted, at great expense and effort on the part of said defendant.

24. In denying defendant Consolidated Freightways, Inc., any opportunity to sustain its affirmative defense, alleged in its answer, based upon the laches of plaintiffs in delaying the filing of this action, and to make proof that such delay would result in serious and irreparable damage to said defendant, if the Commission order of August 2, 1943, granting certificate authorizing the operations instituted long before the filing of action, should be annulled and enjoined.

25. In basing its findings, that plaintiffs were denied a fair hearing, upon a theory neither pleaded nor argued and which defendants had no opportunity to meet.

123 Wherefore, defendants pray that the said decree be reversed.

David O. Mathews,
DAVID O. MATHEWS,
Special Assistant to the Attorney General.

Allen Crenshaw,
ALLEN CRENSHAW,
Attorney, Interstate Commerce Commission.

Donald A. Schafer,
DONALD A. SCHAFER,
Attorney for Consolidated Freightways, Inc.,
803 Public Service Bldg., Portland, Ore.

Edward M. Berol,
EDWARD M. BEROL,
Attorney for Oregon-Nevada-California Fast Freight, Inc.,
465 California St., San Francisco, Calif.

Wendell Berge,
WENDELL BERGE,
Assistant Attorney General.

Daniel W. Knowlton,
DANIEL W. KNOWLTON,
Chief Counsel, Interstate Commerce Commission.

[File endorsement omitted.]

124 In United State District Court

[Title omitted.]

Order allowing appeal

Filed April 3, 1945

In the above-entitled cause, United States, Interstate Commerce Commission, Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight, Inc., having made and filed a petition praying an appeal to the Supreme Court of the United States from the final decree of this court in this cause entered on February 5, 1945, and having also made and filed an Assignment of Errors and a Statement of Jurdisdiction, and having in all respects conformed to the statutes and rules of court in such cases made and provided, it is

Ordered and decreed, That the appeal be, and the same is hereby, allowed as prayed for.

Dated Apr. 3, 1945.

CLAUDE MCCOLLOCH,
United States District Judge.

[File endorsement omitted.]

125 In United States District Court

[Title omitted.]

Notice of appeal

Filed April 5, 1945

To The Attorney General for the State of Oregon.

You are hereby notified that the District Court of the United States for the District of Oregon, on April 3, 1945, filed and entered an order allowing an appeal by the United States, the Interstate Commerce Commission, Consolidated Freightways, Inc., and Oregon-Nevada-California Fast Freight, Inc., to the Supreme Court of the United States from a decree filed and entered on February 5, 1945, in the above-entitled cause, and that the citation signed by such Court on April 3, 1945, in connection with the order allowing such appeal, is made returnable within 40 days from the date of the signing of such citation.

126 Attached hereto are copies of each of the following documents: the citation referred to above, the petition for and the order allowing said appeal, defendants' jurisdic-

tional statement pursuant to Rule 12 of the revised Rules of the Supreme Court of the United States, and the statement required to be served upon appellees by said Rule 12.

This notice is given to you pursuant to the provisions of U. S. Code, Title 28, Sec. 47a, enacted March 3, 1911, c. 231, Sec. 210.

Dated April 3, 1945.

David O. Mathews,
DAVID O. MATHEWS,
Special Assistant to the Attorney General.
Allen Crenshaw,
ALLEN CRENSHAW,
Attorney, Interstate Commerce Commission.
Donald A. Schafer,
DONALD A. SCHAFER,
Attorney for Consolidated Freightways, Inc.,
803 Public Service Bldg., Portland, Ore.
Edward M. Berol,
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Attorney for Oregon-Nevada-California Fast Freight, Inc.,
465 California St., San Francisco, Cal.

Wendell Berge,
WENDELL BERGE,
Assistant Attorney General.
Daniel W. Knowlton,
DANIEL W. KNOWLTON,
Chief Counsel,
Interstate Commerce Commission.

Received a copy of the forgoing notice this 4th day of April 1945.

(Sgd.) GEORGE NEUNER,
For the Attorney General
of the State of Oregon.

[File endorsement omitted.]

127 [Citation in usual form, filed April 3, 1945, omitted in printing.]

129 In United States District Court

[Title omitted.]

Defendants' petition for stay of effectiveness of the Court decree to be entered under the Court opinion entered September 20, 1944, and of injunction therein to be provided, pending appeal to and decision by the Supreme Court of the United States.

Filed Oct. 31, 1944

Defendants respectfully petition the Court to stay, pending appeal to and decision by the Supreme Court of the United States, effectiveness of its decree that is to be entered under the opinion of the Court as entered September 20, 1944, and of the injunction therein expected to be issued, which said decree will annul, set aside, and enjoin the order of the Interstate Commerce Commission entered March 1, 1943. Grounds for this petition are assigned as follows:

1. It is defendants' present intention to submit as soon as possible, and within the time for such appeal as fixed by law, an appeal from the decree of this Court to be entered in accordance with the opinion rendered and entered on September 20, 1944, such appeal being to the Supreme Court of the United
130 States. The taking of an appeal by the United States is, of course, subject to the approval of the Solicitor General.

2. Stay of effectiveness of the decree and of the injunction therein to be granted is necessary to preserve the status quo of the subject matters involved in this action, pending appeal to and decision by said Supreme Court.

3. Appeal does not supersede or stay the decree. (28 U. S. C. Sec. 47 (a).)

4. This Court has authority to grant such a stay upon appeal. (Rule 62 (a) (c) (e), Rules of Civil Procedure, as prescribed by the Supreme Court under authority of 28 U. S. C. 723 (b).) This provision of law vests in this court, within its discretion, authority to grant such a stay by, (1) the Court sitting in open court, or (2) by the assent of all the judges evidenced by their signatures to the order.

5. In the absence of a stay of decree and injunction therein granted, a successful appeal to the said Supreme Court would be to considerable extent nullified, since operations of the two carriers as authorized by the Commission order of March 1, 1943, would have been stopped with a permanent loss of traffic involved.

6. Cessation of operations of the two carriers herein involved, as authorized by the Commission order of March 1, 1943, would result in confusion of traffic and perhaps serious interruption thereto, a part of which relates to the war effort.

7. Unless the decree and the injunction granted thereby are stayed pending appeal, the result would be irreparable damage to the two carriers concerned, in the event the Commission order of March 1, 1943, is approved as lawful and valid by said Supreme Court upon appeal, as well as serious interruption to the important traffic involved, all to the detriment and injury of the shipping public.

131 8. Upon appeal the Supreme Court decision will finally determine the lawfulness and validity of the Commission order of March 1, 1943, which by the decree herein has been or will be annulled and enjoined. Prior to filing of this action the Commission order had become final and effective, and under its terms certificates had been issued to the two applicants. Under those certificates the said carriers had instituted the authorized operations. That is the status quo of the subject matter of this action, the validity and lawfulness of which ultimately depends upon decision on appeal by the said Supreme Court. Unless the decree of this Court and the injunction therein to be granted are stayed pending such appeal, the status quo of the subject matter will be destroyed, and if the Commission order is declared valid and lawful by the said Supreme Court, the result will be the destruction during the appeal time of the lawful operating rights of these carriers, to their irreparable injury and the denial to the shipping public of the transportation facilities provided by such operations.

Respectfully submitted.

ROBERT L. PIERCE,
Special Assistant to the Attorney General.

ALLEN CRENSHAW,
Attorney for Interstate Commerce Commission.

WENDELL BERGE,
Assistant Attorney General.

CARL DONAUGH, by MASON DILLARD, *Asst. U. S. Atty.*
United States Attorney.

DANIEL W. KNOWLTON,
Chief of Counsel,
Of Counsel.

[File endorsement omitted.]

132 In United States District Court

[Title omitted.]

Petition to have original documents, a part of the record before the court, transmitted to the clerk of the Supreme Court of the United States, as a part of the record upon appeal.

Filed April 3, 1945

Defendants-appellants petition the Court, pursuant to Rule 10, paragraph (4), of Revised Rules of the Supreme Court of the United States, to authorize and direct the Clerk of the District Court, to transmit, as a part of the record upon appeal to be filed in said Supreme Court, originals of all records of the Interstate Commerce Commission, offered in evidence to the Court, together

with any and all other documents, pleading, or instrument so received in evidence of which there was no copy filed and now available to said Clerk, for use in preparing the record upon appeal, upon the following grounds:

Order allowing appeal to defendants-appellants from the decree of the District Court to the Supreme Court of the United
133 States, and citation thereon, were signed and entered by the Honorable ----------, District Judge, on ----------, 1945. Appeal papers, including "Defendants-Appellants' Praecipe for Transcript of Record", were filed in the office of the Clerk of the District Court ----------, 1945, wherein request was made to include, as a part of the transcript of record upon appeal, all records of proceedings before the Interstate Commerce Commission, as offered in evidence to the Court, together with all pleadings, all other evidence, proposed findings of fact and conclusions of law, court opinions, and final decree. It appears that only one copy of the records in proceedings before the Interstate Commerce Commission, and of other evidence, documents, and pleadings, in some instances, were filed and are now on file in the office of the Clerk, thereby involving much work, delay and expense to prepare copies thereof for the transcript of record on appeal. And it appears that such Court records will be desirable for the inspection of the Supreme Court.

Respectfully submitted,

David O. Mathews,
DAVID O. MATHEWS,
Special Assistant to the Attorney General.

Allen Crenshaw,
ALLEN CRENSHAW,
Attorney, Interstate Commerce Commission.

Donald A. Schafer,
DONALD A. SCHAFER,
Attorney for Consolidated Freightways, Inc.,
803 Public Service Bldg., Portland, Ore.

Edward M. Berol,
EDWARD M. BEROL,
Attorney for Oregon-Nevada-California Fast Freight, Inc.,
465 California St., San Francisco, Cal.

Wendell Berge,
WENDELL BERGE,
Assistant Attorney General.

Daniel W. Knowlton,
DANIEL W. KNOWLTON,
Chief Counsel,
Interstate Commerce Commission.

[File endorsement omitted.]

134 In United States District Court

[Title omitted.]

Order of court authorizing and directing the clerk of court to transmit to the clerk of the Supreme Court original documents in the court record, as part of the transcript of record upon appeal

Filed April 3, 1945

Upon consideration of petition of defendants-appellants that records of proceedings before the Interstate Commerce Commission, as herein offered in evidence, together with certain other documents, pleadings, and other evidence, be transmitted by the Clerk of this Court to the Clerk of the Supreme Court, as original records now on file in this Court, as a part of the transcript of record upon appeal, and it appearing that certain of these Court records, including the record of proceedings before the Interstate Commerce Commission, were filed in single copies or as originals without additional copies, and that providing copies thereof for the transcript would involve much work, delay, and expense, and that such records and documents will be desirable for the

135 inspection of the Supreme Court,

Now, therefore, the Clerk of this Court is hereby authorized and directed, to transmit to the Clerk of the Supreme Court, as a part of the transcript of record upon appeal, the record of proceedings before the Interstate Commerce Commission, and all other documents, pleadings, and other evidence, where there is only the original or single copy thereof, as contained in the records of this Court. This order is entered to provide for transmission of the full record in this Court to the Clerk of the Supreme Court, as requested in praecipe of parties, avoiding unnecessary work, delay and expense, in making and providing copies for the transcript of record on appeal, where the Court record contains only one original or single copy of a document, pleading, or evidence so requested. It is further ordered that all original records of this Court so transmitted, be returned to the Clerk of this Court, within a reasonable time after the Supreme Court has completed its consideration of the said appeal, and entered its final decision thereon.

This the 3rd day of April 1945.

CLAUDE MCCOLLOCH,
United States District Judge.

[File Endorsement omitted.]

136 In United States District Court

[Title omitted.]

Defendants' (Appellants') praecipe for transcript of record

Filed April 5, 1945

To the clerk of the above-named court:

You are hereby requested to prepare a transcript of the record in the above-entitled cause to be filed in the Supreme Court of the United States, pursuant to an appeal allowed therein, and to include in such transcript of record the following, to wit:

1. Complaint and Exhibits A, B, and C thereto, filed January 14, 1944.
2. Answer of the United States.
3. Answer of the Interstate Commerce Commission.
4. Petition of Consolidated Freightways, Inc., for leave to intervene, as party defendant, and order of Court allowing intervention.
5. Answer of Consolidated Freightways, Inc., upon in-
137 terventions, together with all exhibits or appendices thereto.
6. Petition of Oregon-Nevada-California Fast Freight, Inc., for leave to intervene, as party defendant, and order of Court allowing intervention.
7. Answer of Oregon-Nevada-California Fast Freight, Inc., upon interventions, together with all exhibits or appendices thereto.
8. Records of the Interstate Commerce Commission upon hearings in Consolidated Freightways, Inc., No. MC-42487 (Sub. Nos. 15, 18, 19, and 20), consisting of all testimony and exhibits thereto, and all other Commission records as certified by the Commission Secretary.
9. Records of the Interstate Commerce Commission upon hearings in Oregon-Nevada-California Fast Freight, Inc., Extension—Portland, No. MC-9115 (Sub. No. 1), consisting of all testimony and exhibits thereto, and all other Commission records as certified by the Commission Secretary.
10. Plaintiffs' requested findings of fact and conclusions of law.
11. Findings of fact, conclusions of law, and final decree, as entered by the District Court.
12. Petition for appeal.
13. Notice of appeal and acknowledgement of service.
14. Assignment of errors.
15. Order allowing appeal.
16. Notice of Attorney General of the State of Oregon.

17. Citation on appeal.

18. Statement of Jurisdiction of the Supreme Court of the United States.

19. Statement of defendants-appellants directing attention to paragraph 3 of Rule 12 of the Revised Rules of the Supreme Court of the United States.

138 20. Petition of defendants to stay Court decree pending appeal to the Supreme Court of the United States.

21. Order of Court staying effect of its final decree pending appeal to the Supreme Court of the United States.

22. Petition that original records in the court below be transmitted to the Supreme Court of the United States, and order of Court instructing the Clerk to transmit such original records.

23. Praecipe for transcript of record and acknowledgment thereof.

24. All docket entries in their appropriate order.

25. Transcript of Court hearing, rulings, and argument.

26. Memorandum Opinion 11/10/1944.

27. Opinion 9/24/1944.

David O. Mathews,
DAVID O. MATHEWS,
Special Assistant to the Attorney General.
Allen Crenshaw,
ALLEN CRENSHAW,
Attorney, Interstate Commerce Commission.
Donald A. Schafer,
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Edward M. Berol,
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Wendell Berge,
WENDELL BERGE,
Assistant Attorney General.
Daniel W. Knowlton,
DANIEL W. KNOWLTON,
Chief Counsel, Interstate Commerce Commission.

[File endorsement omitted.]

139 In United States District Court

[Title omitted.]

Docket entries

Jan. 13, 1944—Filed complaint.
Jan. 14, 1944—Issued summons—to marshal.
Jan. 15, 1944—Filed summons with return.
Feb. 25, 1944—Filed praecipe for alias summons for Atty. Gen.—mailed to Attorney.
Mar. 10, 1944—Filed certificate of service of Wm. P. Ellis, atty. for plaintiff.
Apr. 10, 1944—Filed answer of Interstate Commerce Comm.
Apr. 13, 1944—Docketed & entered order setting for hearing on April 28, 1944. attys. notified. Fee.
Apr. 15, 1944—Filed notice of motion and motion to intervene of Consolidated Freightways. Schafer.
Apr. 15, 1944—Filed notice of motion and motion to intervene of Oregon-Nevada-Calif. Fast Freight, Inc. Schafer.
Apr. 24, 1944—Record of hearing on motions of Oregon-Nevada-Calif. Fast Freight, Inc. and Consolidated Freightways to intervene—argued & under advisement or continued for hearing before 3 judge court. Fee.
Apr. 28, 1944—Record of trial, evidence adduced, arguments made pttf. to file brief in 15 days & defts. to have 15 days to answer. Wilbur McC. Fee.
Apr. 28, 1944—Filed exhibits 1 to 12 inc. & extra copies pleadings.
Apr. 24, 1944—Filed answer of United States.
May 10, 1944—Filed transcript of proceedings.
May 13, 1944—Filed plaintiff's brief (lodged 2 copies).
May 20, 1944—Filed motion of Oregon-Nevada-Calif. Fast Freight, Inc. for extension of time.
May 24, 1944—Filed letter of Judge Wilbur.
May 24, 1944—Filed & entered order extending time to file answering briefs to June 9, 1944. Fee.
May 27, 1944—Filed brief on behalf of U. S. and Interstate Commerce Comm.
June 9, 1944—Filed brief of intervenor Oregon-Nevada-Calif. Fast Fgt., Inc. (lodged 2 copies).
June 9, 1944—Filed answering brief of intervening defts. Consolidated Fgtways (lodge 2 copies).

140 Apr. 28, 1944—Filed ptff's memorandum of authorities.
Apr. 28, 1944—Filed brief of Int. Com. Com.

Apr. 28, 1944—Filed amended answer of intervenors Consolidated Freightways.

Apr. 28, 1944—Filed answer of Oregon-Nevada-Calif. Fast Fgt. Co.

Sept. 20, 1944—Filed written opinion (I. C. C. order suspended) notices to attys. 3 judge.

Oct. 31, 1944—Filed deft's petition for stay of effectiveness of decree, and brief (2 copies).

Nov. 9, 1944—Filed statement of pltfs. with respect to motion for stay.

Feb. 5, 1945—Filed memorandum opinion re. findings, conclusion & stay of decree's effectiveness. copies to attys.

Feb. 5, 1945—Entered findings of fact & conclusions of law. notice to attys. Fee.

Feb. 5, 1945—Entered decree. notices to attys. Fee.

Feb. 6, 1945—Filed above findings & conclusions. notices to 9 attys. Fee.

Feb. 6, 1945—Filed above decree. Fee.

Feb. 14, 1945—Filed petition to stay effect of decree entered Feb. 6, 1945—Taken under adv. Fee.

Feb. 15, 1945—Entered order to stay effect of decree entered Feb. 5, 1945. (pet. & order sent south by J. Fee for signatures' Wilbur & McC) (notice to all attys.). Fee.

Feb. 14, 1945—Filed petition to stay effect of decree entered Feb. 6, 1945.

Feb. 21, 1945—Filed order staying effect of decree.

Apr. 3, 1945—Filed and docketed petition for appeal by U. S., Interstate Comm. Comm. et al.

Apr. 3, 1945—Filed and docketed assignment of errors.

Apr. 3, 1945—Filed and docketed & entered order allowing appeal. McC.

Apr. 3, 1945—Filed and docketed petition to send original records to Supreme Court.

Apr. 3, 1945—Filed and docketed & entered order for Clerk to send original records.

Apr. 3, 1945—Filed and docketed citation on appeal.

Apr. 5, 1945—Filed and docketed notice of appeal to Pierce Auto Freight lines etc.

Apr. 5, 1945—Filed and docketed notice of appeal to Atty. Genl., State of Oregon.

Apr. 5, 1945—Filed and docketed proof of service of notice of appeal on George Neuner.

Apr. 5, 1945—Filed and docketed appellant's praecipe for transcript.

Apr. 5, 1945—Filed and docketed jurisdictional statement by defts.

Apr. 5, 1945—Filed and docketed statement directing attention to Rule 12, par. 3.

Apr. 17, 1945—Filed and docketed 3 acknowledgments of service.

141 UNITED STATES OF AMERICA,
District of Oregon, ss:

I, Lowell Mundorff, Clerk of the District Court of the United States for the District of Oregon, do hereby certify that the foregoing pages numbered from 1 to 149 inclusive, constitute the transcript of record upon the appeal from a judgment of said court in a cause therein numbered Civil 2340, in which United States of America, is defendant and appellant and Interstate Commerce Commission; Consolidated Freightways, Inc.; and Oregon-Nevada-California Fast Freight, Inc., are Interveners and appellants, and Pierce Auto Freight Lines, Inc., a corporation; Los Angeles-Seattle Motor Express, a corporation; Angelo Colletti, doing business under the assumed name and style of Colletti Fast Freight; Pacific Motor Trucking Company, a corporation; and Pacific Southwest Railroad Association, are plaintiffs and appellees; that said transcript has been prepared by me in accordance with the designation of contents of the record on appeal filed by the appellants and in accordance with the rules of Court; that I have compared the foregoing transcript with the original record thereof and that it is a full, true, and correct transcript of the record and proceedings had in said court in said cause, in accordance with the said designation, as the same appears of record and on file at my office and in my custody.

I am also inclosing herewith transcript of proceedings dated April 28, 1944 and exhibits 1 to 12 inclusive.

I further certify that paragraphs numbered 8 and 9 in praecipe for transcript of record are exhibits 1 and 3 respectively; that plaintiffs requested findings of fact and conclusions of law (no. 10 of praecipe) were never filed or made a part of this record.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court in Portland, in said District, this 7th day of May 1945.

[SEAL]

LOWELL MUNDORFF,
Clerk.

By F. L. BUCK,
Chief Deputy.

143 In the District Court of the United States for the District of Oregon

No. Civil 2340

Pierce Auto Freight Lines, Inc., a corporation, Los Angeles-Seattle Motor Express, a corporation, Angelo Colletti, doing business under the assumed name and style of Colletti Fast Freight, Pacific Motor Trucking Company, a corporation, and Pacific Southwest Railroad Association, plaintiffs, *vs.* The United States of America, et al., defendants.

**Transcript of hearing*

(Filed May 10, 1944)

PORTLAND, OREGON, *Friday, April 28, 1944.*
11:00 o'clock A. M.

Before Honorable CURTIS D. WILBUR, Honorable JAMES ALGER FEE, and Honorable CLAUDE MCCOLLOCH, Judges

Appearances

Mr. William P. Ellis, Portland, Oregon; Mr. Alfred A. Hampson, Portland, Oregon; and Mr. Henry T. Ivers, Seattle, Washington, attorneys for plaintiffs.

Messrs. Robert L. Pierce and Allen Crenshaw, Washington, D. C., attorneys for defendant The United States.

Mr. Edward M. Berol, San Francisco, California, attorney for Oregon-Nevada-California Fast Freight.

Messrs. Donald A. Schafer and C. E. Holbrook, Portland, Oregon, attorneys for Consolidated Freightways, Inc.

144 Judge WILBUR. In regard to the second case, gentlemen, how do you expect to handle the factual situation?

Mr. ELLIS. We intend to offer in evidence the entire record for the Commission. The record is not certified. The notice given us of the hearing did not permit us time to get it to Washington and back, so we have had an understanding with counsel for the Attorney General's office, at least, that we might introduce it uncertified with the privilege and promise of having it certified later.

Mr. CRENSHAW. Insofar as the Commission is concerned, we would be interested in knowing whether it is a complete record in the case or not. Now which case do you have the record in, Mr. Ellis?

Mr. ELLIS. I have, I believe, the complete record in both cases.

Mr. CRENSHAW. The two motor carrier cases?

Mr. ELLIS. The two motor carrier cases, both Consolidated and the Oregon-Nevada-California Fast Freight, with the exception of two or three exhibits which were not furnished to the parties, and which I have requested promptly from the Secretary of the Commission, but which I have not yet received.

Mr. CRENSHAW. I notice in the complaint you have a question there about a third case, in which you say that the order of the Commission in this case was inconsistent with the other one. In order to consider that at all I think we should have the
145 record of the third case also. That is the reason I asked the question.

Mr. ELLIS. I do not have the record and did not intend to offer the record in the convenience and necessity case of the Oregon Express. I am relying entirely there upon a certified copy of the Commission's order, which contains the specific findings which are contrary to the findings which I contend the Commission must of necessity make here in order for the applicants to sustain the burden.

Mr. CRENSHAW. That will only pertain to the one point in the case. Insofar as the other two records are concerned, we would not object to the introduction here of the uncertified records, with the privilege of certifying them later. But we would want the opportunity of checking those to see that there is the full record; not merely a part of it. That might take a little time. We promise the Court we won't raise any technical objections to anything like that, and we will try to waive anything that we possibly can.

Mr. ELLIS. I would want the privilege of having the Secretary of the Commission at my expense complete any portions found to be missing. I have done my best to make it complete.

Mr. CRENSHAW. We can agree on that too, I think, that if there is anything missing you can have it later filled in and filed.

Judge WILBUR. You expect to submit the case on the tes-
146 timony taken before the Commission?

Mr. ELLIS. Yes, your Honor.

Judge WILBUR. Both of you?

Mr. CRENSHAW. That would seem to be necessary, if the Court is going to review the facts in the case, to have the entire record. I was merely trying to be careful that we do have it. And I am sure from what Mr. Ellis says that if he does not have it here, why, he can complete it later and we would have no objection to that.

(The Court then proceeded to hear another matter, after which proceedings herein were resumed as follows:)

Mr. ELLIS. If the Court please, on behalf of the plaintiffs I offer in evidence at this time the entire transcript of testimony before the Interstate Commerce Commission in Docket MC-9115, Sub

Number 1: In the Matter of the Application, as amended, of Oregon-Nevada-California Fast Freight, Inc., 675 Vernon Street, San Francisco, California, for a certificate of public convenience and necessity, consisting of pages 1 to 2,499, inclusive, and ask the privilege of later certification by the Secretary of the Commission and, at the same time, the privilege of correcting any deficiencies which may be found in the record.

Mr. PIERCE. As we have indicated before, with the understanding that this will be certified.

Judge WILBUR. Very well. You may file that in evidence.

147 Mr. ELLIS. Will it be assigned an exhibit number?

Judge WILBUR. Yes.

(The transcript of testimony in Docket MC-9115, Sub Number 1, before the Interstate Commerce Commission, above referred to, so offered and received, was thereupon marked by the Reporter "Plaintiffs' Exhibit 1.")

Mr. ELLIS. As my second exhibit I offer in evidence a bound volume containing all of the exhibits offered in the proceeding just referred to, namely, Exhibits 1 to 70, inclusive, and ask that it be received as Exhibit 2, it all being a part of the original record before the Interstate Commerce Commission.

(The bound volume of exhibits above referred to, so offered and received, was thereupon marked by the Reporter "Plaintiffs' Exhibit 2.")

Mr. ELLIS. I likewise offer in evidence the transcript of testimony before the Interstate Commerce Commission in Docket MC-42487, Sub Numbers 15, 18, 19 and 20, in the Matter of the Application, as amended, of Consolidated Freightways, Inc., 2029 Northwest Quimby Street, Portland, Oregon, for a certificate of public convenience and necessity, consisting of pages 1 to 1,975, inclusive.

Judge WILBUR. Was that granted or denied?

Mr. ELLIS. Pardon?

Judge WILBUR. Was that application granted or denied?

Mr. ELLIS. Both were granted, your Honor.

148 Judge WILBUR. They are the ones involved here?

Mr. ELLIS. They are the ones involved here. I offer that with the same privilege of certification and correcting any deficiencies found to exist.

(The transcript of testimony before the Interstate Commerce Commission, Docket MC-42487, above referred to, so offered and received, was thereupon marked by the Reporter "Plaintiffs' Exhibit 3.")

Mr. ELLIS. I likewise offer in evidence the file of exhibits introduced by all parties before the Interstate Commerce Commis-

sion in the case last referred to on the Application of Consolidated Freightways, consisting of Exhibits 1 to 32, inclusive, the same also to be later certified.

(The file of exhibits above referred to, so offered and received, was thereupon marked by the Reporter "Plaintiffs' Exhibit 4.")

Mr. ELLIS. I next offer in evidence a printed document designated No. MC–9115, Sub Number 1, Oregon-Nevada-California Fast Freight, Inc., extension Medford-Portland, Oregon-San Francisco, California, which is the exceptions of that applicant to the report and order recommended by H. L. Hanback, Examiner, and I offer it with particular reference to the petition for reopening and for further hearing and for the taking of additional evidence, the document being dated at San Francisco,
149 November 28, 1941. We are raising here the issue of failure of the Commission to grant a rehearing, and the exhibit is offered in that connection.

Judge MCCOLLOCH. A rehearing in the present case?

Mr. ELLIS. Yes, your Honor.

Judge MCCOLLOCH. When was the petition for rehearing filed?

Mr. ELLIS. This first petition which I am now offering was filed following the recommended report of the examiner, which was on November 28, 1941.

Mr. SCHAFER. I would like at this time, your Honor, to voice an objection to arguing these exhibits. I understand that counsel here is merely introducing the complete record, not with specific reference to anything, and I think it is highly improper to argue them as he hands them in.

Judge WILBUR. He just answered a question the Judge asked him.

Mr. SCHAFER. While I am up, your Honor, I would like to move the admission of two other counsel for the purpose of this case, and also there is pending a petition for leave to intervene by both the Oregon-Nevada-California Fast Freight and Consolidated Freightways, Inc. And there is an amended answer which has been filed but we have not received.

Judge WILBUR. Are you moving now for this intervention?

Mr. SCHAFER. I thought we should before the evidence started to go in; yes, your Honor. First I would like to move the admission of Mr. Edward M. Berol of San Francisco, who is admitted to practice in the Federal courts there.

150 Judge FEE. Has he made the requisite affidavit for admission here?

Mr. SCHAFER. It is our understanding, for the purpose of this case only, that he does not have to conform with that formality.

Judge FEE. Your understanding is wrong.

Mr. BEROL. I want to say, if your Honors please, I just arrived here yesterday. I have not filed the customary affidavit. If I would be permitted to be heard in this matter I will, of course, file the affidavit and seek admission in the normal manner.

Judge FEE. The Court directs that you file the affidavit or motion for admission as sooh as you are given an opportunity during the course of the day. You get that immediately on file, and subject to that condition the Court admits you for the purpose of this argument.

Mr. BEROL. I will do so, your Honor. Thank you very much.

Mr. SCHAFER. I would like to also move the admission for the purposes of this case of Mr. C. E. Holbrook, who is admitted to the Oregon Bar, and who has filed an application for permanent admission to this court some five days ago. It has not cleared yet.

Judge FEE. Counsel is admitted for the purpose of this case.

Mr. HAMPSON. May your Honors please, I desire to move the admission for this case of Mr. Henry T. Ivers of Seattle, who is a member of the bar of the Supreme Court of the United States, and who will file an application today for permission to practice here.

Judge FEE. Admitted under the same conditions for the
151 purpose of this argument.

Judge WILBUR. Gentlemen, in regard to this application for intervention, is it the purpose of the attorneys representing the intervenors merely to participate in the trial by concurring in the stipulation already made concerning the formal record which is to be presented, or do they simply desire to file briefs in the case, or what is the situation?

Mr. SCHAFER. Under Rule 24 of the Rules of Practice, your Honor, we believe that we have a right to intervene as defendants. We represent the two carriers whose rights are challenged here and who will be put out of this business if the plaintiffs succeed. And under those circumstances, under Rule 24 of the New Civil Rules, we believe we have a right to intervene as defendants for all purposes and take standing as a defendant in this case.

Mr. ELLIS. If the Court please, the plaintiffs resist the petition for intervention as filed on the ground that the answer attached to the petition greatly broadens the issues of the case. Counsel has in his answer—at least, the answer that was served on me a few days ago—set up defenses that plaintiffs themselves are not entitled to bring this suit; and, in a manner which is in my opinion frivolous, has specifically denied the operating rights of each and every plaintiff in this case in such manner as to bring into issue all of the records in some seven or eight formal pro-

ceedings before the Interstate Commerce Commission. Now it is not my understanding that any rules of this court per-
152 mit an intervening defendant in a cause wherein the Government itself is the defendant, a cause wherein the Government itself has conceded by its answer our right to bring this action, to demand the right to intervene and to so unduly broaden the issues of the case. If the petition were granted as filed, I assure you it would be utterly impossible for us to proceed with the case here now by reason of the broadening of the issues which are proposed.

Mr. BEROL. Your Honor, there are two carriers that are involved in this proceeding, and the carrier I am particularly representing here, the Oregon-California-Nevada Fast Freight, by its petition for leave to intervene with answer attached, in its answer did nothing further than to admit some of the allegations and to deny other of the allegations. There is certainly nothing in the proposed answer that in any way broadens the issues of this proceeding. It contains only admissions and denials; nothing further.

Mr. ELLIS. My comments were directed, if the Court please, to the petition of Consolidated Freightways, represented by Mr. Schafer.

Judge MCCOLLOCH. Do you oppose Mr. Berol's answer?

Mr. ELLIS. No; I do not.

Mr. SCHAFER. On behalf of Consolidated Freightways, last Monday, I believe it was, we argued a petition for leave to intervene, and at that time counsel raised the same objections to the answer which was originally filed, and I indicated that
153 I would file an amended answer for the Consolidated. That is in the possession of the Court now. Judge Fee said that the admissibility of the amended answer would be considered this morning. The amended answer changes the answer in the respect complained of by Mr. Ellis, and the point which was raised by the denial as to their right has now been moved back to an affirmative defense on the ground of estoppel. We contend in our affirmative defense that if our certificate is void for the reason complained of by these plaintiffs, then their certificate is void for exactly the same reasons and they should be estopped to contend here that ours is no good and that theirs is good. And that has been moved back to an affirmative defense on the ground of equitable estoppel.

Judge FEE. May the Court now hear your position on this question of the amended answer in intervention.

Mr. ELLIS. If the Court please, I have only now been handed a copy of the amended answer. I had not seen it until the issue was presented here a few minutes ago. I find no essential dif-

ference in the answer now presented and the one heretofore presented, so far as my objections are concerned. I point out that the answer of the United States, in the second paragraph, reads: "In answer to Paragraph VIII of the complaint, admits that the authorized operations are competitive with those conducted by plaintiffs, and that plaintiffs will suffer such injury as to give them a standing to bring this suit." Similar admissions
164 are made in the answer of the Interstate Commerce Commission. Now if the answer raising the equitable estoppel should be permitted, the mere fact that it is pleaded as an equitable estoppel would not avoid the necessity upon our part to present evidence to establish the facts upon which the estoppel is set up. And since the facts alleged relate to these numerous proceedings, relate to the evidence that was offered, and relate to the character of the findings made by the Commission in each of them, it seems to me clear that the issues are so unduly broadened as to make it impracticable to be permitted and to make it impracticable for the parties to proceed with the case.

Judge WILBUR. Do you gentlemen have at hand the rule in regard to intervention, the form of procedure?

Mr. SCHAFER. Rule 24, Subdivision "a": "Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) When a statute of the United States affords an unconditional right to intervene"—and the Urgent Deficiency Act does confer upon a carrier in a case like this the right to intervene—and also "(2) When the representation of the applicant's interest by existing parties is or may be inadequate and the applicant is or may be bound by a judgment in the action." Here we surely will be bound by a judgment. Our business will be destroyed.

Judge MCCOLLOCH. Why didn't you raise this issue before the Commission?

Mr. SCHAFER. We have been. We have been through the
155 Commission.

Judge MCCOLLOCH. Why didn't you raise this issue before the Commission, that these other were estopped?

Mr. SCHAFER. We did raise it on our reply—let's see. No, it was not applicable before the Commission, I guess.

Judge FEE. What is the position of the Government and the Interstate Commerce Commission in this regard?

Mr. CRENSHAW. So far as the Commission is concerned, we have no objection at all, and we usually have such interventions. I may call the Court's attention to the fact that the plaintiff Pierce Auto Freight Company, this plaintiff here, intervened as defendant in the McCracken case, which your Honor, Judge Fee, heard

here on exactly the same sort of basis as here. And may I also say something here, that the Commission in its answer does not admit that they would be damaged because of this action of the Commission. They admit merely there will be more competition, perhaps, on this section of the highway. The question of whether or not they suffered damage by reason of this order is something else. We don't admit that. Certainly, if these plaintiffs, as protestants to an application which we granted to these other carriers, have any standing to bring that suit, I would say that these carriers, who are directly and vitally interested in this, have the right to intervene.

Judge FEE. Of course, one question is whether this comes under the rule even as to a timely application.

Mr. CRENSHAW. Yes.

156 Judge FEE. We think that this is going to broaden it so that this Court will have to take evidence. We are going to make our finding upon this matter. There are questions of fact raised by these affirmative defenses.

Mr. CRENSHAW. We chose in the Commission to rely upon the lawfulness of our order rather than to rely upon such technical questions as are raised by the intervening defendant, one of which was the question of the standing of some of these parties to bring this suit. We realized or we recognized that some at least of them had the right to bring this suit, so we simply didn't raise it, because we had some question in our minds about the right of some of those parties to join in this.

Judge FEE. Of course, the difficulty in the situation is now that we are ready to hear argument, and that is the reason why it was passed over by me on Monday. I thought if there was any ground for intervention it should have been done before the case was set for argument, and everybody could be notified and be here. It seems to me, as far as I personally am concerned, that there is no objection to letting them in as far as the denials are concerned, but as far as these affirmative defenses, which apparently take in some other matters, which might require proof before this court, it seems to me it is not timely made.

Mr. CRENSHAW. One point that they do make, and that might involve some proof here, depending on how they presented it. We don't raise the question of laches, so far as we are concerned, because we are not interested in that, but they are the people

157 who would be interested in it.

Mr. HAMPSON. May I be permitted to offer a word on this point? It seems to me that the argument offered by Mr. Schafer carries with it a conclusion which is entirely too broad for the premise on which it is founded. He asserts the absolute right to

intervene in this proceeding, but the intervention, if such is established as a matter of right by any statute or rule, is such an intervention as is consonant with the ordinary concepts of judicial process, and that is an intervention which does not broaden the issues of the litigation. Now no opposition was directed towards the intervention or the request to intervene on the part of Nevada-California-Oregon because of the fact that the issues established by the proposed answer in intervention do not broaden the issues in the main suit. But a proper and necessary objection to the proposed intervention of Consolidated Freightways is made because of the fact that it seeks to broaden the issues in the principal suit, and therefore is not such an intervention as is permitted under any rule of law or under any concept of the judicial process.

Mr. SCHAFER. May I be heard upon the matter of timeliness? Your Honor will recall that the Government's time to answer this complaint does not expire until about May 3rd, and we are at the trial of this case really before the Government's time to answer has expired. And we expected to be able to wait until that time, at any rate, before we intervened. We filed our intervention as soon as the case was set down for trial.

158 Judge FEE. Both parties will be permitted to intervene insofar as the issues are concerned that are already made up in this case. That is, you can file an answer with admissions and denials to the petition, but the affirmative defenses which are set up will not be considered by the Court and are stricken from the amended answer, and it will be permitted to be filed when they are eliminated. We will now treat it as though it were filed.

Mr. SCHAFER. Save an exception, please.

Judge FEE. You may adopt the answer as tendered at present and the Court will consider it as though the affirmative defenses were stricken.

Mr. SCHAFER. Yes, your Honor.

Judge FEE. You may now proceed to argument, or with the rest of your proof.

Mr. ELLIS. The exceptions of the O-N-C I have described and ask that it be marked as Exhibit No. 5.

(The exceptions of Oregon-Nevada-California Fast Freight, Inc., to the report and order in Docket No. MC–9115, Sub. 1, above referred to, so offered and received, was thereupon marked by the Reporter "Plaintiffs' Exhibit 5.")

Mr. SCHAFER. Is that the applicant's exceptions?

Mr. ELLIS. The applicant O-N-C's exceptions, containing the petition for rehearing and reconsideration. We also offer as Exhibit No. 6 a petition for reconsideration, further hear-

159 ing, and postponement of issuance of certificate, and brief in support thereof, filed on behalf of protestants, who are

the plaintiffs herein, in Dockets MC–42487, Sub. Numbers 15, 18, 19, and 20, and in Docket No. MC–9115, Sub. Number 1, relating to both the Consolidated and Oregon-Nevada-California Fast Freight cases.

Judge WILBUR. It may be filed, if there is no objection.

(The Petition for reconsideration, etc., above referred to, so offered and received, was thereupon marked by the Reporter "Plaintiffs' Exhibit 6.")

Mr. ELLIS. I offer as Exhibit No. 7 a document bearing Docket No. MC–42487, Sub. Numbers 15 and 20, in the Matter of the Application of Consolidate Freightways, Inc., being the applicant's reply to the petition for reconsideration which I have just introduced.

(The reply to petition for reconsideration, above referred to, so offered, was thereupon received in evidence and marked "Plaintiffs' Exhibit 7.")

Mr. ELLIS. I offer as Exhibit No. 8 a like document, which is the reply of the applicant Oregon-Nevada-California Fast Freight, Inc., to the petition of protestants for reconsideration, further hearing, and postponement of certificate.

(The reply of Oregon-Nevada-California Fast Freight, Inc., to petition of protestants for reconsideration, etc., above re-
160 ferred to, so offered, was thereupon received in evidence and marked "Plaintiffs' Exhibit 8.")

Mr. ELLIS. I offer as Exhibit No. 9 a certified copy of petition and order of the Interstate Commerce Commission in its Docket MCF–1317, Consolidated Freightways, Inc.—Purchase—C. G. Reymers, dated April 23rd, 1941, being a decision in a related case heard and decided subsequent to the submission of the two cases which are the subject of this suit.

Mr. CRENSHAW. We object to this offer here, this report and order. That is in the third case that I called the Court's attention to in the beginning. It is not a part of the record of these two applications we are dealing with in this case here. He is simply saying in his complaint that the Commission order in this case was inconsistent with the order in that case; and to determine that we would have to have all of that record, not merely the report, to know that or even make a comparison. It is immaterial, and I offer an objection to it on the ground of immateriality. I am sure the Court will recognize the authorities on the question that the Commission does not have to be consistent. We at least try to be, but we don't have to be consistent.

Judge WILBUR. If the whole record in that case were here, would that remove your objection?

Mr. CRENSHAW. Oh, I think we would have to object, your Honor. I think it is immaterial and irrelevant to the issues in this case.

161 Judge WILBUR. Is that the last evidence you are going to present?

Mr. ELLIS. I have two others of like character, if the Court please. Perhaps it would be helpful if I indicated the purpose of the offer. I am not challenging the orders that were entered nor the accuracy of the findings embraced therein, as far as my offers are concerned. One is now being objected to. They are offered in connection with our challenge of the Commission's denial of our petition for rehearing. They are offered because they are, to my mind, conclusive proof of the fact that the Commission knew of these changed conditions to which we had called their attention.

Judge WILBUR. If they didn't know it it would be because they were dead.

Mr. ELLIS. Exactly; and had determined those issues on these later records in a matter utterly opposed to a denial of our petition for reconsideration.

Judge FEE. Why shouldn't we consider those as we do the opinions of the Court?

Mr. ELLIS. I think you could properly, if the Court please, and I have obtained certified copies and have them here.

Mr. PIERCE. These are officially recorded in the Commission's report, and no doubt the Court would take judicial notice of them, even without their being offered, for whatever purpose it wanted.

162 We, of course, have no objection to the plaintiffs furnishing additional copies for the benefit of the Court rather than require them to go to the books and look them up.

Mr. CRENSHAW. In fact, really what they are asking the Court to do is to say this order is void, and they ask to offer these, of which we do not even have the record——

Judge MCCOLLOCH. This case stands or falls on the merits of the petitioner's position that the Commission has acted inconsistently, and that is one of the main points in the petition.

Mr. ELLIS. I might point out, too, that certain of these reports and orders are not reported in the official decisions of the Commission. I note that one of them that I intend to offer contains a notation at the top, "This report will not be printed in full."

Judge WILBUR. We will let the evidence come in subject to the objection and consider it when the case is argued.

(Certified copy of Petition and Order of the Interstate Commerce Commission, Docket MCF–1317, above referred, so offered and received, was thereupon marked by the Reporter "Plaintiffs' Exhibit 9.")

Mr. ELLIS. I offer as Exhibit No. 10 the order of the Interstate Commerce Commission and the attached opinions in Docket No.

MCF-1411, Oregon-Nevada-California Fast Freight, Inc.—Control—Oregon Express, in that case their being two opinions and two orders.

Mr. BEROL. May I see that order before it is offered?

163 Mr. CRENSHAW. I make the same objection to these I made to the other.

Judge WILBUR. Same ruling.

(The orders and opinions of the Interstate Commerce Commission in Docket No. MCF-1411, above referred to, so offered, was thereupon marked by the Reporter "Plaintiffs' Exhibit 10.")

Mr. ELLIS. I offer as Exhibit No. 11 the opinion and order of the Interstate Commerce Commission, duly certified by the Secretary, in Docket MC-18231, Sub Number 4, being Oregon Express—extension—alternate routes, decided September 26, 1942.

Mr. CRENSHAW. We make the same objection to this report.

Judge WILBUR. Same ruling.

(The opinion and order of the Interstate Commerce Commission, Docket MC-18231, so offered and received, was thereupon marked by the Reporter "Plaintiffs' Exhibit 11.")

Mr. ELLIS. That concludes our offer of evidence.

Judge WILBUR. Any evidence on the other side?

Mr. HOLBROOK. Consolidated Freightways would like to offer brief on behalf of protestants in Docket No. MCF-1358 and No. MCF-1317. This has not been certified, and we would like to receive the same permission as was received by the plaintiffs in this case to get that certified by the Secretary. We are offering this only in answer to the evidence or exhibits introduced by plaintiffs which have been objected to.

164 Mr. ELLIS. We fail to see the relevancy. It is our brief, at least the brief of some of us, in these dockets. We raise no objection.

Judge WILBUR. If there is no objection it will be filed.

Mr. ELLIS. It is not in either of the cases here.

(Protestants' brief in Dockets MCF-1358 and MCF-1317, so offered and received, was thereupon marked by the Reporter "Intervenor Consolidated Freightways Exhibit 12.")

Judge WILBUR. Any further evidence, gentlemen? As I understand, you have filed all the evidence you wish in the case all sides?

Mr. CRENSHAW. We will not file any, your Honor.

Judge WILBUR. How do you want to present this, gentlemen?

Mr. IVERS. We desire to present argument on the matter, your Honor.

Judge WILBUR. How do you want to divide your time? How do you want to handle it?

Mr. IVERS. If there is sufficient time, we would like to have about an hour and a half altogether on our side, if it is possible to do so.

Judge WILBUR. On the side of the plaintiffs?

Mr. IVERS. On behalf of plaintiffs' side.

Judge WILBUR. How about the other side?

Mr. CRENSHAW. Well, your Honor, we will try to devise
165 some way to avoid too much argument from the defense side. Mr. Pierce will present the first argument for our side. We would like to have for all of us together an hour and a half, and we are hopeful that we can reduce that some.

Judge WILBUR. You can divide the time yourselves.

Mr. CRENSHAW. Yes. Mr. Pierce will be first, Mr. Berol will be second, and Mr. Schafer third, and then I hope that I won't have to say anything at all.

Judge WILBUR. The application for an hour and a half on a side will be granted. We will ask counsel to keep track of their own time and divide their time among themselves. The plaintiffs may proceed with the argument.

Mr. IVERS. If it please the Court, I shall attempt as briefly as possible to review the factual background insofar as we consider it to be helpful to the position which we take. The situation at the beginning of these applications consisted of these operating facts as between these two carriers, Consolidated Freightways and Oregon-Nevada-California Fast Freight: For many years Consolidated in the north and south direction had not operated south of Kalmath Falls, Oregon, or Medford, Oregon; and Oregon-Nevada-California Fast Freight had not operated north of those two points, Medford, Oregon, and Klamath Falls, Oregon; but they had at those two points for many years interchanged traffic with one another originating on their respective lines.

Judge MCCOLLOCH. Do you represent any one of the particular parties or all of the parties?

166 Mr. IVERS. I represent the Los Angeles-Seattle Motor Express, plaintiff, your Honor. The evidence in this case and the order of the Commission shows that some time in 1938 the president of Consolidated Freightways made a proposal to all connecting carriers connecting with Consolidated that they form an organization to be known as Freightways for the ostensible purpose of facilitating the interchange of traffic and the handling of traffic at interchange points, an organization which, by the way, has subsequently and recently been dissolved as a result of an action brought by the Department of Justice under the Sherman Anti-Trust Act. The president of Oregon-Nevada-California Fast Freight, after a second indication from Consolidated that they had had ample time in which to express their acquiescence

in the proposed formation of Freightways, was told by Consolidated Freightways that if they did not enter into this agreement that Consolidated Freightways was going to make an application to secure a permit to operate through from their northern termini, north of Medford and Klamath Falls, into San Francisco.

The evidence conclusively shows that the Commission found that had it not been for the fact that Consolidated did file an application subsequent to the making of this threat the Oregon-Nevada-California Fast Freight would never have filed an application to extend its operations north of Klamath Falls and Medford, Oregon.

Nevertheless, as a result of these occurrences, both parties
167 filed an application each to fill out, at least to some extent, the territory served by the other previously by connection at Medford, Oregon, and Klamath Falls, Oregon. The applications were opposed by the plaintiffs here and others. Each of the records was made up separately, and each of the hearings, while they were conducted consecutively in the same location, moving from point to point, each record was maintained separately.

Consolidated, on the one hand, called numerous witnesses who had been utilizing their service, and of course this service had amounted to a single service between Portland and San Francisco, consisting of two carriers. The people on the north-bound were doing business with Consolidated Freightways and the people on the south end of the line were doing business with Oregon-Neveda-California Fast Freight.

On this particular operation, which is the main portion of the application, some ninety-five witnesses were called, sixty by Oregon-Nevada-California Fast Freight and thirty-five by Consolidated Freightways. These witnesses were placed upon the stand, and there was described to them in general—I am not trying to be specific about it—the then existing interchange service between Consolidated Freightways and Oregon-Nevada-California Fast Freight, which it was proposed to them as a part of their questioning involved the necessary delay of anywhere from eight to twenty-four hours in the interchange of traffic that they were then shipping over this joint operation between San Francisco and Portland or vice versa. And then they were asked if they would rather have a through service which would not entail
168 an eight to twenty-four hour delay, and if this so-called delay between these two parties was eliminated it would serve their convenience better. And of course the answer in each instance was obviously yes to such questions.

At the conclusion of the hearings the joint board which had been sitting on them was, according to the report of the Examiner, unable to agree upon a decision in these cases and re-

ferred the matter to the Examiner of the Interstate Commerce Commission who had presided at a portion of these hearings before the joint board. The Examiner wrote a report recommending a denial of these two applications.

Judge WILBUR. Were there two applications?

Mr. IVERS. Two applications, yes, one by Oregon-Nevada-California Fast Freight to move north of Medford, and one of Consolidated to move south of Medford.

Judge WILBUR. The Examiner was for denying both?

Mr. IVERS. Denying both; yes, your Honor. I should say, as we allege in the complaint here, the hearings began two years and nine months prior to the issuance of the order, and the hearings were concluded two years and four months before the issuance of the order by the Commission.

Exceptions were taken to the Examiner's report and the matter submitted to the Commission. Then commenced a struggle between these two carriers, which is evidenced by the other orders which have been introduced here in evidence to acquire
169 these operating rights by some other method. Oregon-Nevada-California Fast Freight purchased or attempted to purchase an operation known as the Pacific Seaboard, which ultimately became the Oregon Express. They did acquire a controlling interest in it, and they started connecting at Medford, Oregon, with this newly acquired operation, and subsequently applied to the Commission to ratify or authorize their purchase of Oregon Express. That was not authorized, as the opinions introduced in evidence show.

Consolidated Freightways, then, in retaliation, may I say, attempted to purchase an operation known as Mitchell Brothers, who had pending an application for rights before the Commission to operate through from Portland to San Francisco. I misstated myself. They made an application to lease those rights with an option to purchase, which would give them by that acquisition method the right which they were attempting to acquire by the instant proceedings. The Commission denied them the right to lease or purchase that operation, and that order is in evidence, these things occurring after the submission of the record in the instant case and the orders of the Commission being based upon records that were made during the intervening two years and four months between the close of the hearing in the instant case and the issuance of the order by the Commission.

It seems quite obvious to us that the Commission was confronted with a rather difficult problem to solve in this instant case.
170 Here were two carriers who had for years been interchanging traffic at Medford and Klamath Falls, Oregon, who through the action of one no longer desired to interchange with

one another and had no desire to facilitate the operation through the interchange. One of them, at least, emphasized in the record—the Consolidated witnesses emphasized the impossibility of this interchange operation as a competitive method of operating, although they had voluntarily carried it on for many years prior to that time and had made no effort, either prior to the grandfather date, or at any other time, to change it. But they now come before the Commission and say it is impossible to operate under an obvious set of circumstances where neither party cared any longer to cooperate with one another in attempting to facilitate this new service.

There had been in existence a single service consisting of a combination of these two carriers, and if the evidence that was submitted here justified anything at all it could not justify more than the substitution of a single through service or a single joint service. The problem was solved by not choosing between them, but by throwing the witnesses in both the records together, considering that they proved convenience and necessity for an operation, and granting rights to both.

It is quite obvious, we believe, from the order of the Commission and from the record in this case the Commission realized that it could not force these two carriers to cooperate with one another when a situation had been built up where both of them showed ill-will toward one another and were not
171 going to perform a facilitating service through interchange. And yet to substitute for that interchange service there was justification only for permitting one through service. There was a question of choosing between the two.

Judge McCOLLOCH. Does the Commission have statutory power to compel interchange?

Mr. IVERS. Oh, it would have, but it couldn't make it an efficient service. It couldn't make two people do something that they didn't want to do. They might do it reluctantly, but they couldn't make them perform an efficient service when they were not getting along with one another and said it could not be done. I don't think they could make two competing carriers perform an interchange service.

Judge McCOLLOCH. I understood you to say they couldn't. I thought you said they couldn't.

Mr. IVERS. I don't think they could, your Honor. I am not certain about it. I don't think they could force two carriers to interchange freight.

As I say, the situation confronting the Commission was such that they were forced to choose between these two, and they took the easiest way out by not making a choice but simply granting it to both of them.

Our contentions are not, however, based upon a review of the evidence in this case, to the extent that we are not claiming that there was not substantial evidence intro-
172 duced which might have or probably would support the granting of either of these applications. We have raised a number of specific questions dealing with the method by which the Commission issued its order: The lack of findings; the consideration of evidence from two separate records in each record, commingling them in such manner that it is impossible to distinguish upon what evidence the certificates were issued to each of these carriers; and several other points, which I will leave to my colleague to handle specifically.

We feel that the difficulty confronting the Commission, as we have outlined it, is indicated from certain external facts which are before this court. The first is the type of order which was written in order to attempt to justify the issuance of these two certificates; secondly, the unusual length of time elapsing between the closing of the record and the granting or the issuance of the order. And, thirdly, the denial of the right to both of these parties during the time that this order was pending, or this matter was pending before the Commission, to accomplish this objective by another method, in each of which instances the Commission found that public convenience and necessity did not authorize the Commission to grant them the authority to accomplish this end by the acquisition of other operating rights. And yet in the end the difficulty was solved by not making a choice between the two, but attempting by an illegal method to justify the issuance of a certificate to both.

Mr. Ellis. If the Court please, in opening my discussion
173 I want to make it clear that we are not here merely attacking two orders of the Interstate Commerce Commission. In twenty-five years of practice involving the Interstate Commerce Commission this is the second suit which I have brought against it, and in the other suit they confessed error and withdrew the order before the case came to trial.

We are involved here in the determination of principles which are fundamental to our very existence as carriers. I have long been an admirer of the Interstate Commerce Commission. I have worked in administrative law throughout my active lifetime. I am a firm believer in the practical working of administrative law. And yet the workings of that law, as it has been conducted by the Interstate Commerce Commission in this and other cases during the past two years, has caused me to wonder if perhaps my judgment has not been wrong.

The Commission has in this case, as I read their order and analyzed their proceedings, violated almost every principle of

justice and fair dealing, and of a fair and open hearing, and of the fundamental rights of litigants, that it was possible for a tribunal to violate. That may seem like an exaggerated statement, but I hope I may establish the justification for it.

It has, first, nullified our rights of fair hearing or the right to be confronted with the witnesses against us and of our right to cross-examine those witnesses by arbitrarily, two years and four months after the case was closed, back in its
174 office in Washington, taking that mass of evidence from two separate proceedings and dumping them into one hodgepodge, taking evidence which their competent examiner had previously examined and written two separate reports on, and, for its own convenience, embodying them in a single finding of fact and conclusion.

Secondly, in the process it failed to make the essential findings which the statute says it must make before the granting of certificates to new carriers to invade the field. Our challenge there does not go to the question of formality, but rather to the fact that the Commission has attempted, apparently, to cover up the weakness of its process by merely reciting the language of the statute, and in one of the last paragraphs of its opinion has failed to put in its analysis of the facts any substance upon which that ultimate conclusion, in the language of the statute, could possibly be based.

In the third place, it has rather boldly thrown aside the direct burden of proof which is upon any applicant seeking rights to invade territory by specifically saying, "We are in doubt about the evidence on this point. It is conflicting. But in view of that fact we are waiving the burden of proof, and resolving the benefit of the doubt in favor of the applicant, the one upon whom the duty rested to make a case."

The last two points which we raise are in reality one. We point out the inconsistent position which the Commission has taken. It was its duty before authorizing even one new
175 carrier to enter the field to find some inadequacy in the present services of existing carriers, and find that the new proponent of service was able to render that service and do a better job than the carriers already in the field.

And on this record made, I think, more than a year before Pearl Harbor, assuming that it showed the conditions at that time, the Commission waited two years and four months before expressing itself. In the meantime there have been other applications involving identical issues, applications to operate over this identical route, where the identical arguments were advanced, where later testimony was offered wherein the Commission had found the

public convenience and necessity did not exist, wherein the Commission had found that existing carriers had ample equipment and were willing to provide more if it was needed. And yet in the face of those later findings, on records nearly a year and a half later than this record, records made after Pearl Harbor, when the transportation situation on the Pacific Coast had changed tremendously, in the face of all those things and of our insistence that we could prove that not one fact relied upon by the Commission as the basis for its decision in these two cases was true at the time the order was made, in the face of its own conflicting determination of the same issues, the Commission arbitrarily refused to grant us the privilege of a rehearing, and of demonstrating on this record that vast and almost unbelievable change in transportation service which had occurred in the ensuing two
176 years and four months.

I will go back to my first point, relating to the comingling of the record. The transcripts which are introduced here will indicate that in the Oregon-Nevada-California case the actual taking of testimony in the case did not start until three months after the Consolidated testimony commenced. Obviously, there was no opportunity upon the part of counsel to cross-examine in one case witnesses that were called in the other when he didn't even know the testimony was going to be considered. Counsel for applicants themselves objected to the consolidation of their own several applications in one record, and were very loud in their protests against any joint consideration of the records. But the matter was dropped at that time, and the next we heard of it was two years and four months later, when Division 5 of the Commission, with Commissioner Rogers dissenting, overruled the proposed report of the examiner assigned to the case and filed this joint report.

Judge McColloch. Did he dissent on that ground?

Mr. Ellis. He dissents upon the ground that war conditions have changed the situation.

Judge McColloch. Did he dissent upon the ground that you have just stated?

Mr. Ellis. Not upon the ground of the joint record. That was not before the Commission at that time, or at least nothing had been filed to call it to his attention.

I think Mr. Ivers has pointed out the basic error in
177 the Commission's reasoning, wherein he pointed out their determination to arrive at the same result in both cases. That language is found at the bottom of Sheet 23 of the report. Mr. Crenshaw has attached to his answer a very clear copy of the Commission's order, and you can see it there if you like. On that sheet the Commission said: "For reasons which are obvious, au-

thority should either be granted or denied to both applicants to operate over the Valley route."

Now those reasons, which were so obvious to the Commission, are not so obvious to us, but it seems clear that only by scrambling the two records and treating the testimony in the Consolidated case as though it were introduced in the other case, and vice versa, would it be possible for a tribunal to arrive at the same results in both cases.

Judge McCOLLOCH. You don't know that they scrambled the records, as you put it?

Mr. ELLIS. I don't know that they physically mixed it up in their office, but if your Honor will take a look at the opinion which they filed in this case and compare it with the record, there can be no doubt about the process that was followed. I personally have attempted to check it, and even with my familiarity with it I could not check it accurately. But I have checked it enough to know and state without equivocation——

Judge McCOLLOCH. That would be dishonest, wouldn't it, if they did that?

Mr. ELLIS. We claim that it is certainly unjust, but it
178 seems to be a practice adopted by the Commission for its convenience in reaching a result which it seemed to them it was necessary to reach.

Judge WILBUR. I gather from what you say there is no express order combining the cases?

Mr. ELLIS. There was no order combining the two cases.

Judge WILBUR. You inferred that that is what they did?

Mr. ELLIS. It was a complete surprise to the parties.

Judge McCOLLOCH. Judge Wilbur just said you infer that that is what they did?

Judge WILBUR. As I understand, you infer from the record and your examination of it that they did, in fact, consider the evidence in both cases.

Mr. ELLIS. I am very positive of that fact, your Honors. I will just give you one or two little illustrations. After summarizing the scope of the separate applications, the Commission discussed on Sheet 2, "Applicant's present service:" The first paragraph under that heading is based upon the Consolidated record. The second states the facts taken from the Oregon-Nevada-California Fast Freight proceeding. The third relates to evidence that may be found in both records, and the remaining paragraphs jumps sentence by sentence from one record to the other, in utter disregard of boundary lines, and without the slightest effort to apply any of the facts to the particular case in which the testimony was offered, but unreservedly applying all of those facts to both cases.

179 Judge McCOLLOCH. They made separate orders, didn't they, separate reports?

Mr. ELLIS. No, a single report, and we find no segregation of the decision in any way until the last page, where they put in two separate paragraphs a finding with respect to each carrier. But a single order, I believe, is made in the two cases.

In the paragraph beginning at the bottom of Sheet 5 the proposed faster service of Consolidated to Washington, Idaho, Montana, and certain Eastern Oregon points was discussed.

Judge McCOLLOCH. Did the Examiner make separate reports?

Mr. ELLIS. He did. And in that discussion they concluded with the statement that 170 points will receive 24 hours faster service than now available. Now that comment could not actually have related in any way to the Oregon-Nevada-California application in truth, since only the Consolidated had offered the type of service to which the Commission alludes. However, by the illogical process of applying evidence to the two cases, the Oregon-Nevada-California Fast Freight is given full benefit of all the evidence that went in to the Consolidated record dealing with shortening the time to Eastern Oregon and Eastern Washington points.

And a few pages later, under the heading of "Public Convenience and Necessity," the Commission applies that finding directly to both cases and finds they are shortening the service over the Valley routes by 24 hours via both lines.

Again, on the question of scrambing the records, to
180 establish my point, on Sheet 7, under the heading "Shipper Witnesses" the Commission had this to say: "Approximately 120 shipper witnesses were called by one or the other of the applicants, although some few testified in behalf of both applicants. Sixteen shipper witnesses testified for protestants." Then they say this: "Applicants' shipper witnesses, as a whole, are engaged in shipping or receiving general commodities at numerous points in California, Oregon, and Washington, and at some few points in Idaho," grouping them all in a single group. But at another point the Commission refers to the testimony of a college professor from one of the California colleges, who was presented in the Consolidated case. In examining it I find they have picked a paragraph bodily from the report of the Examiner in the Consolidated case, but here is the part of the report in both cases, just as effectively as though the witness had been called and had testified in both cases. Actually, of all these numerous shipper witnesses, there are in the Consolidated case exhibits embracing the testimony of only four of them. There were four O-N-C witnesses counsel for Consolidated thought supported his

case. He had the testimony copied in exhibit form, and they appear in the record as exhibits in the case. But the rest of the sixty shipper witnesses who testified only for the O-N-C, many of whom said they would not support anybody else and who testified for O-N-C because they liked them, are thrown into the Consolidated record to help carry the load and arrive at a common result.

181 I have no hesitancy in suggesting that if counsel for the two applicant carriers could be wholly frank with the Court, each of them would tell you that the other applicant won his case, not because of his own evidence, but because he got the benefit of evidence the other counsel put into the record. And I think I could agree with both of them.

I hope following the conclusion of the case to have the opportunity to file a trial brief in which I can point out a number of other specific points wherein it is obvious the Commission has joined the two records and considered the evidence in both. But I want to pass now to the question of law which is involved.

The objection to use of data not presented in the record before the Interstate Commerce Commission has been made in a number of previous cases. Perhaps the case of United States versus Abilene & Southern Railway Company, back in 265 U. S. 274 is typical, or that of Interstate Commerce Commission against Louisville & Nashville Railroad Company, 227 U. S. 88. The Court there said: "Manifestly, there is no hearing when the party does not know what evidence is offered or considered and is not given an opportunity to at least explain or refute." Those early cases related to the practice of the Commission of taking into consideration in rate cases annual reports and other documentary data which it had in its files—data presented by the carriers themselves, and perhaps they were not in a position to challenge it, but the

182 Court held, nevertheless, they were entitled to know at the time of trial what evidence was going to be used against them. The principle has, however, been applied in motor carrier cases by some of the lower courts. In Kline versus United States, 41 Federal Supplement 577, decided in October of 1941 by the United States District Court for the District of Nebraska, Omaha Division, there was involved a statutory suit identical with this one to set aside an order of the Interstate Commerce Commission involving operating rights of a motor carrier. In its opinion in that case the Commission had not been so bold as it is here. It did not combine two totally different records, but it did in its opinion in this particular carrier's case refer to another opinion which it had previously rendered in a related case, and to the fact that the claimant in the other case had testified that he

had operated under a claim of right similar to the second applicant. No testimony was introduced, and the report merely indicated that the Commission had taken note of the fact that some different testimony had been introduced in an earlier case. The Court overruled and set aside the order of the Commission, saying that the petitioner was deprived of his right to cross examine and test the truth of the statements appearing in the two applications. And following the rule in I. C. C. vs. Louisville & Nashville——

Judge WILBUR. That was a three-judge case, was it not?

Mr. ELLIS. Yes, it was, your Honor.

Judge WILBUR. I understood you to say it was a Circuit
183 Court of Appeals case.

Mr. ELLIS. District of Nebraska.

Mr. CRENSHAW. Kline & Company is the name of the case, isn't it? I tried it myself.

Judge MCCOLLOCH. Mr. Crenshaw, you don't discuss this question of scrambling of records in your brief.

Mr. CRENSHAW. I don't discuss it?

Judge MCCOLLOCH. Yes.

Mr. CRENSHAW. Yes, sir; it is in there.

Judge MCCOLLOCH. You find the page for me at the recess. You can give it to me.

Mr. ELLIS. I was unable to find any discussion of the point from my examination of it. Our objection does not go, if the Court please, to the cases in which the Commission has consolidated for convenience a number of cases and has written a common report. We concede that that is proper and practical.

Judge MCCOLLOCH. Isn't there something said here about a stipulation covering the use of part of the record? Isn't there something said here somewhere that there was part of the record used in both cases?

Mr. ELLIS. No, no. Before the conclusion of the case it became obvious that protestants would offer substantially the same evidence in both cases; that is, they would have much evidence that would be common to both cases, although not identical—operating testimony, principally, and the shipper witnesses
184 testified to the quality of their existing service.

Judge MCCOLLOCH. Did the same joint board hear both cases?

Mr. ELLIS. They did not.

Judge MCCOLLOCH. Were they running the hearings contemporaneously?

Mr. ELLIS. They were run consecutively. One case would be heard for a few days and a recess taken, and the second one taken up.

Judge McCOLLOCH. In the same town?

Mr. ELLIS. In the same town. The same counsel were involved, to some extent, yet there were counsel in some cases that were not in others.

Judge WILBUR. What was it you were going to confess?

Judge McCOLLOCH. About a stipulation, I think.

Mr. ELLIS. There was a stipulation between the parties that this protestants' testimony might be offered in one case, actually physically given in one case, and incorporated in the record in the second case to avoid repeating it. That was stipulated to by all parties, and it was actually made a part of the record in both cases, only taken but once, in the presence of all parties.

Judge WILBUR. Are you seeking to escape from that stipulation now?

Mr. ELLIS. Not at all. We think it proper, and I have no apology to make for it in any way. If the other parties to the case had done the same thing we perhaps would have no
185 complaint on that score.

Judge WILBUR. If what?

Mr. ELLIS. If the other parties to the case had had similar stipulations as to the entire record——

Judge McCOLLOCH. You mean this stipulation just covered part of the record?

Mr. ELLIS. It covered nothing at all except certain protestant's testimony.

Judge McCOLLOCH. Which you consider a minor part of it?

Mr. ELLIS. A major part of our case, of the protestants' case, but a minor par of the whole record.

My second point, which I will refer to only briefly, relates to the ultimate findings of the Commission and the failure of the record to substantiate those findings. On Sheet 25 will be found the specific findings as to each applicant. The conclusion is stated in the language of the statute, that the present and future public convenience and necessity requires the operation by applicant between the points designated, and that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Act and the rules and regulations of the Commission. We contend that much more than that is required, and urge that without basic or underlying findings of fact to support that ultimate conclusion the order cannot stand. We contend that it must appear from the clear and certain language of the report that these ultimate con-
186 clusions of the Commission result from the application of correct rules of law to the facts of record. We think the report is sorely lacking in this respect. Not only did they fail to make affirmative findings concerning the facts uniformly

held to be determinative of cases of this kind, but it uses language which indicates that the Commission has misconstrued its powers and decided the two cases on grounds that are not sanctioned.

On Sheet 23 they indicate concisely the legal issues that are involved. They say the question is whether the proposed service will serve a useful public service, responsive to a demand, public demand or need, whether this purpose can and will be served as well by existing carriers, and whether it can be served by an applicant with a new operation of the service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

Now in that language they have quoted the language of the Supreme Court in Texas & N. O. R. vs. Northside Belt Railway Company, 276 U. S. 475, although they do not indicate it is a quotation. The Commission itself has had frequent occasion to apply those principles to cases similar to this, but the weakness of this determination is that the Commission fails to decide those issues; they fail to state in non-equivocal language, any of those fundamental facts which the Courts have said are necessary for them to decide. They did not decide, for example, in any specific language that there was anything inadequate with the exist-
187 ing service of the present carriers. As to the service of my client, Pierce Auto Freight Lines, they merely said there were many witnesses who were not acquainted with the character of that service. As to certain other protestant carriers the Commission merely said that some of these carriers do not hold operating rights between all points, and they individually are not giving a full service. But as to the services as a whole, the Commission failed completely to make any finding that there was an inadequacy, which was required to be made before the granting of either or both of these applications.

Another point which the Commission is required to determine is the extent to which it may impair the ability of existing carriers. All the Commission had to say on that score was that "We are unable to find specifically that there will be impairment," and gave the benefit of the doubt to the applicant, who had not proved its case, and contented itself to let it rest at that point.

Judge WILBUR. When you say the Commission was bound to make a certain finding, you are not referring to any particular statute but only to the decisions of the Court?

Mr. ELLIS. To the decisions of the Court, which hold that for the purpose of advising litigants what the Commission has considered, and for the purpose of permitting the courts to review the propriety of the Commission's action, the Commission must state in clear and concise language, and void of any ambiguity, what facts are actually determined, in order that this court and

188 others may properly carry out their function to say whether the Commission has acted within the scope of its authority. I contend there is not a sufficient statement of ultimate fact contained in this report to sustain the burden which was upon the applicant and upon the Commission.

My time is getting a little short, and I will jump hurriedly now to one late case which contains language relating directly to this point: Eastern-Central Motor Carriers Association, et al, vs. United States, 64 Supreme Court 499, decided February 7th of this year.

Judge McCulloch. When you write your brief get the U. S. citation.

Mr. Ellis. Yes. It was not available in the Advance Sheets. The question had to do with competition between carriers. It was also a District Court case, the District Court sustaining the Commission, and which was set aside by the Supreme Court, and this language was used: "Upon a matter of such consequence and complexity our function in review cannot be performed without further foundation than has been made. We do not mean by this to imply that the result the Commission has reached would not be sustained if a sufficient basis were supplied in the record. We do not undertake to determine what result the Commission should reach, but we cannot say that the one at which it has arrived has the sanction of law without further basis than we now have. This in itself requires reversal."

189 Judge Wilbur. Do you remember who wrote that opinion?

Mr. Ellis. Justice Rutledge wrote the opinion.

Judge Wilbur. The Supreme Court in a number of cases sent matters back for further finding where there were ultimate findings of fact. It has done that in a number of types of cases, I mean. I confess some perplexity about the old rule that the finding must be only of ultimate facts and not evidentiary facts. Apparently they desire now that the evidence be found rather than the ultimate fact or, at any rate, the probative effect of all the evidence be considered.

Mr. Ellis. The Supreme Court's decisions in the earlier cases related to the setting aside of orders of the Commission relating to intrastate rates on the ground of discrimination, and the Court was very clear there that while the ultimate finding was made it was not sufficient in its supporting findings to indicate the Commission followed the correct rule of law.

In some of the more recent cases, however, the Court, particularly in one which I have just referred to, and in Baltimore & Ohio Railroad Company vs. United States, the Court has apparently greatly broadened its requirements, and as to what findings

are basic and what findings are jurisdictional has made it very clear that there must be sufficient facts stated to enable the Court to determine that the ulimate conclusion of the Commission is based upon the correct application of principles, whether
190 they be technically jurisdictional findings or not.

Judge McCOLLOCH. It seems to depend sometimes upon what Commission is involved,

Mr. ELLIS. Pardon?

Judge McCOLLOCH. It seems to depend sometimes upon what Commission is involved.

Mr. ELLIS. Yes, no doubt that is true. Passing now to the question of the denial of our application for rehearing, I think it should be sufficient to point out to the Court that two years and four months had elapsed from the time this record was closed until the decision was handed down. In the meantime there had been a petition for reconsideration filed by one of the applicants, the Oregon-Nevada-California Fast Freight. When he saw what the holding of the Examiner was and became aware of the changed conditions, he protested to the Commission that the record did not show the true operating conditions at that time, about a year and four months after the close of the record, and pleaded that they should reopen the case for further hearing and to bring the record up to date. Later, when the decision was handed down—I may say there was no protest on the part of the protestants. We were quite willing that the rehearing be granted, and we did not enter a word of protest. Later, when the decision was handed down, we filed or we lodged a petition for rehearing, which we have shown.

Judge McCOLLOCH. What showing did you make in be-
191 half of your petition to reopen the case, or whatever it was, as to change of conditions?

Mr. ELLIS. In the petition we set up——

Judge McCOLLOCH. Just in a word. Did you make a showing?

Mr. ELLIS. We made a showing to the effect that not one ultimate fact relied upon by the Commission to sustain its decision was in truth a fact at the time of the decision of the Commission or at the time of our petition, but that war conditions had resulted in each of the protestants practically doubling his facilities.

Judge McCOLLOCH. You didn't make that showing until after the decision had gone against you?

Mr. ELLIS. That is correct. We made it on the petition for reconsideration. Up to that time there was on file an undetermined petition for reconsideration——

Judge McCOLLOCH. By the other party?

Mr. ELLIS. By the other party—and we would merely have been repeating their grounds. And, by inference, we asked the same

thing through not opposing it. In the meantime the Commission had decided the identical issues which they had to decide here in directly the opposite manner, and they had found the public convenience and necessity did not require any additional service on a record more than a year later than ours.

Judge McCOLLOCH. Were the parties to this case in that case?

Mr. ELLIS. They were. They were all in that case and offered the later evidence of changed operating conditions and in-
192 creased facilities.

Mr. CRENSHAW. I object to the discussion of what is in the other record because that is not before this court. He is merely stating something, and what he is talking about is something that is in evidence in another record.

Judge FEE. He is just answering the Judge's question, isn't he?

Judge McCOLLOCH. I didn't ask whether it was in the other record. I just asked if the parties were the same.

Mr. ELLIS. The parties were the same.

Judge McCOLLOCH. That is all I asked, I think.

Mr. ELLIS. As authority for our contention that we were denied a fair hearing we call attention to the decision of Atchison, Topeka & Santa Fe Railway Company vs. United States, 284 U. S. 248, which was a grain rate case occurring subsequent to the previous world war back in the depression days, wherein the Commission denied a petition for rehearing under circumstances very much similar to those here involved. The Court held that the denial was an abuse of discretion where it was shown that conditions had so substantially changed. Our challenge in this respect goes to a basic denial of justice, denial of a fair hearing.

Summarizing our views, the Commission by commingling the two records, which were not properly joined, by concluding that the granting of one application required the granting of the other, by assuming that the failure of the two carriers to
193 agree on interchange proved public convenience and necessity without any finding of inability of the existing carriers to adequately serve the public, by waiving the burden of proof which was upon both of the applicants through extending to them the benefit of the doubt, to use the Commission's own language, on a stale record two years and four months old, the Commission has entered an order which is contrary to the law of the case as established by three former decisions which I have offered in evidence, and during times of extreme national emergency it has authorized four new through operations, two by each carrier, one via Klamath Falls and one via Medford, which would result in duplication prohibited by orders of the Office of Defense Transportation, which we were not permitted to introduce in evidence, based on pot shot schedules in violation of all the rules of the

Office of Defense Transportation, for the purpose of providing a promised through service which had already been established by each of the carriers on a date long prior to the date of the order through the leasing of equipment with friendly connecting carriers. And we respectfully submit that the order is utterly void.

I would like to pass up to the Court a brief memorandum of my authorities and ask the privilege following the conclusion of the case to file a more elaborate brief.

(Thereupon a recess was taken until 1:45 o'clock P. M. of
194 the same day, Friday, April 28, 1944, at which time Court reconvened and proceedings herein were resumed as follows:)

Mr. PIERCE. If the Court please, as the plaintiffs have told you, this is a suit by various motor and rail carriers seeking to set aside an order of the Interstate Commerce Commission issued under Section 207 of the Interstate Commerce Act granting a certificate of public convenience and necessity to the intervening defendants Consolidated Freightways and Oregon-Nevada-California Fast Freight. These certificates grant Consolidated the right to extend its operations southward so as to conduct them between Medford, Oregon, and San Francisco, Klamath Falls, Oregon, and San Francisco, and between Lakeview, Oregon, and Redding, California. At the same time they permit O-N-C to extend its operations northward and to conduct them between Medford and Portland and between Klamath Falls and Goshen, Oregon.

Previously, as the report indicates, these two carriers, as pioneers in this particular field, had conducted joint line operations between San Francisco, on the one hand, and Portland and other points in Oregon and Washington on the other, by means of the interchange of freight, either interchanging the freight itself or the trailer at Medford or Klamath Falls. Under this procedure the O-N-C had in the past performed transportation south of Medford and Klamath Falls, between there and San Francisco, while Consoli-
dated Freightways had conducted transportation north of
195 those points. The effect of the Commission's present order is to permit each of these carriers to conduct a single line operation between Portland and San Francisco and intermediate points.

Judge WILBUR. That is, they both have the same line?

Mr. PIERCE. Well, over one route.

Judge WILBUR. Yes.

Mr. PIERCE. Not over the other. Plaintiffs in general operate in this same area. The Supreme Court has on numerous occasions indicated just what the function of the Commission is in determining whether extensions of operations will be in the public

convenience and necessity. It is indicated that the Commission's function in this type of case is to weigh, in the exercise of reasonable discretion, the public need for adequate service, adequate transportation service, against the possible ill effects between the applicant carrier and other carriers already in the field which such extension of operations will have. It is very clear in the present case that the Commission did apply this legal formula which I have mentioned.

On Page 39 of its decision—I refer to the pages as they are attached to the complaint—the Commission has defined the issues as: "whether the proposed service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing carriers; and whether it can be served by an applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest."

196 Now the Commission having followed this correct legal formula in the present case, it is well settled that the question of public convenience and necessity is a question of ultimate fact for the Commission and not for the courts. Its conclusions cannot be judicially overturned if they are supported by findings of fact which are, in turn, supported by substantial evidence.

Plaintiffs first assert that the Commission's ultimate conclusion is not supported by its findings. We think, however, that the portion of the Commission's report which is entitled "Discussion and Conclusions," and which appears at Pages 38 to 43 of the report attached to the complaint, does contain ample findings.

A three-judge court has recently pointed out in Davidson Transfer & Storage Company against The United States, with particular reference to the necessary findings in a public convenience and necessity case such as this, that the Commission is required only to make so-called basic or jurisdictional findings of fact and is not required to set forth every bit of evidence. This is, of course, in accord with the Commission's general practice and the holdings of the courts in this type of case. There has not really been any change in the Supreme Court's decisions with respect to findings of fact. It has been well settled for some time, I believe, since Justice Cordoza's decision in the Chicago & Milwaukee case at least ten years ago, that the Commission is required to set out basic findings of fact. But, at the same

197 time, it has been recognized that it is not required to set out all the evidence. We do not contend, of course, that the Commission can satisfy all the requirements by merely making findings in the language of the statute, but we think that they have done much more than that here.

Of course, the difficulty in each case is not so much the determination of the rules as to findings, but to apply the rules to the particular case. An examination of the part of the report which I have referred to, labeled "Discussion and Conclusions," in the light of these concepts, clearly indicates that the Commission here did most meticulously perform this fact finding function. And this part of the report sets forth ample subordinate findings to support its ultimate conclusion as to public convenience and necessity.

On Page 40 of the Commission's report the report states that each of the two applicants plans to offer an expedited through single-line service to and from all intermediate points. It states that there is no doubt but that a number of shippers desire such proposed services. The expedited service will enable shippers to obtain goods more rapidly, resulting in an increase of their business, and that practically all of the witnesses preferred a single-line through service. The report also states that each applicant operates units equipped with mechanical refrigeration, which type of refrigeration, the Commission points out, many shippers desire for the proper handling of their goods.

198 It is thus evident from this portion of the Commission's report that it saw at least four advantages to the public in this proposed service: First, that the service would be expedited; secondly, that this would be an individual single line service, doing away with certain of the disadvantages of the prior joint line service; thirdly, that this service would afford improved service to intermediate points; and lastly, that these carriers would provide better refrigerated service.

Plaintiffs also argue that the Commission's decision as to public convenience and necessity was based merely on the fact that the two carriers could not agree upon the proper method of interchange over their joint service. But it is obvious from the finding which I have mentioned that this was not the only factor in the case. Existing interchange difficulties were referred to by the Commission only to show that the applicants' joint line service was not serving the public as well as applicants might do it if they had the opportunity to offer a single line service. The Commission, we think, is entitled to consider all factors in a case of this type, as a question of fact, which do have any reasonable bearing upon the situation, and we think they were clearly entitled to consider this factor.

Plaintiffs also urge that the report contains no finding that the existing carriers were not adequately equipped and able and willing to serve the needs of shippers in this territory. On the contrary, on Page 42 the Commission clearly discusses this

199 question. It states that of the protestants only one, Pierce,

was authorized to transport general commodities to and from all intermediate points along this so-called Valley route. It states that Pierce did not reinstitute his daily operations between Portland and San Francisco, however, until after these applications were filed and just before the hearing. And it further states that the shipper witnesses generally were unfamiliar with the fact that Pierce was conducting these daily operations, and it also states that there were, of course, other motor carriers operating over this route, but that their authority was either so restricted in such a way as to preclude a finding that this service was adequate, especially to intermediate points, or, secondly, that the record established that their service to intermediate points, and in some cases to San Francisco, was at best negligible. The mere fact that Pierce might have performed this same type of service did not preclude the Commission from allowing another carrier to enter the field, for the Supreme Court has held in the Chesapeake & Ohio case against the United States, 283 U. S. 35, that the Commission may authorize new service so far as rail carriers are concerned for the very purpose of providing the public with increased competition and with the advantages of competition. And the Court has also held in this Davidson case which I have mentioned, the three-judge court case, that the Commission, as part of its arsenal of weapons in improving service, is not
200 required to compel existing carriers to improve their service, but that it may allow a new carrier to enter the field.

Also it is contended with respect to findings that the report contains no findings that the granting of these applications will not result in the impairment of service of existing carriers other than these two intervenors. That this is not the case, however, is apparent from an examination of the portion of the Commission's report to which I have referred, particularly on Page 41. There the Commission states that protestants allege that the granting of authority to operate over the Valley route, especially as to southbound traffic, would further divide the available traffic and impair their ability to render adequate service. But the Commission says that the traffic northbound, as well as the southbound traffic, is increasing, and from the facts heretofore discussed in respect of the increase in business enjoyed by the motor carrier protestants, it would be difficult to conclude that authorizing applicants to perform the operations set forth in our findings would so endanger or impair the operations of existing carriers as to be contrary to the public interest. It further stated that there was no evidence of any impairment if Consolidated was authorized to extend its route southward from Klamath Falls, for

there is now no service, through or joint, says the Commission, between points in Central and Eastern Oregon and Washington over the proposed routes.

201 Plaintiffs also contend that the Commission improperly consolidated the disposition of these two separately heard applications in a single decision, and that the two separate and distinct records have improperly been thrown together as one record—scrambled, so they say. But it is a well established procedure, both in courts and by the administrative bodies, to treat combination cases together in a single decision. The Supreme Court has mentioned in the Pottsville Broadcasting case that the Commission should be left great freedom in molding its procedure to meet the tremendous administrative tasks which it has to handle. Section 17, Paragraph 3, of the Interstate Commerce Act, directs the Commission to conduct its proceedings in such manner as will conduce to the proper dispatch of business and to the ends of justice, and certainly does not forbid this practice.

Judge FEE. You don't mean to say that when cases have been submitted by opposite parties, two separate cases have been submitted by opposite parties, that any court takes them together to decide them?

Mr. PIERCE. The Supreme Court, your Honor, has when the cases are companion cases. The Supreme Court will frequently allow argument together of the two and dispose of them both in a single decision. We are not, of course, contending that the Commission had any right to decide one case upon the record in another, but we think they did have the right——

202 Judge FEE. That is the charge being made here.

Mr. PIERCE. That is right.

Judge FEE. That they decided upon the basis of the record in the other case.

Mr. PIERCE. That is right. I am just considering now the general propriety of considering these two cases together in a single decision.

Judge FEE. What is the use of making that kind of an argument if it hasn't anything to do with the facts?

Mr. PIERCE. Well, I understood that they were making that contention as well.

Judge FEE. They are making the contention that the evidence from two separate records was thrown together and they didn't have any notice of it.

Mr. PIERCE. Well, we think it was natural that these two cases should be heard together here, and that there should be one decision.

Judge FEE. Naturalness has nothing to do with it. The question is whether any court or any body has a right to take two

separate cases and consolidate them for consideration without giving the parties an opportunity to be heard on each side.

Mr. PIERCE. The plaintiffs were given a full opportunity, your Honor, to submit their record and their evidence, and they were given a full opportunity to present oral argument. Now the only contention, as I see it, is this: That the Commission has
203 taken evidence from the record in one of these cases to support its findings with respect to another. Now if that were true, the plaintiffs might have something to object to. But they have made no contention here, they have pointed to no specific instance, where the Commission has drawn evidence from a record in one hearing and made findings on the basis of that with respect to another carrier.

They refer to the Abilene & Southern case as showing that the Commission has no right to make findings on the basis of material which is not introduced in the record. But in that case the Commission refers specifically to material within its own record which had not been introduced. There is no showing that the Commission here has taken any particular part of the evidence with respect to one carrier and made it apply to another carrier.

Judge FEE. Counsel in his argument pointed out several specific instances where he said that is exactly what they did.

Mr. PIERCE. He has pointed out that the Commission referred to the number of witnesses there, but that is all. The Commission was very careful in its report to deal specifically here with each of the carriers. It made separate findings with respect to the service proposed to be offered by each of them. Now it seems to me that plaintiffs have practically admitted themselves out of court when they say that they were not contesting the substantiality of the evidence to support these findings. I
204 believe that was said at the opening of the argument. It seems to me if they are going to show that the Commission has improperly used the evidence in one case to support the other they must definitely show that there is no evidence in either one of these records to support the Commission's finding with respect to that carrier. And we think so far, at least, that they have made no definite showing of that type.

Judge MCCOLLOCH. I cannot agree to that. How does anybody know what was persuasive with the tribunal, whether the evidence they were properly considering was persuasive or whether the evidence they improperly considered was persuasive?

Mr. PIERCE. The point is, your Honor, if there is sufficient evidence in the Consolidated record to support the finding made with respect to Consolidated, and if there is sufficient evidence in the

O-N-C record to support the Commission's finding with respect to that carrier, that is sufficient. And yet plaintiffs say that they are not urging that there is any lack of substantiality of the evidence.

Judge FEE. The point that I was making personally was the fact that your argument did not hitch with what they claim in this case at all. Your argument was that the Commission has a right to throw two records together, as I understood.

Mr. PIERCE. I didn't say that, your Honor. I don't say they have the right to throw two records together. I say that the Commission has the right to decide two cases which are separately heard in a single decision. That does not mean that they
205 decide each case on any record other than related to that case.

Judge FEE. That is not the claim that is made in this case. The claim made in this case is, specifically, that that is not what they did at all, but they took findings from one set of evidence and transferred it to the other case. That is the only point that I am interested in hearing you on. I am not interested in hearing a nebulous state of facts which does not affect this particular state of facts.

Mr. PIERCE. I say that there is sufficient evidence in each of these records to support the finding which the Commission has made. That is, the finding in the Consolidated case was supported by the record in the Consolidated case.

Judge WILBUR. They concede that, but they claim the Commission took witnesses who were examined in one case by one set of attorneys and used them in another case without the knowledge of the lawyers on the other side, without an opportunity to cross examine them, or to make them witnesses in the other case.

Mr. PIERCE. I don't think they did that, your Honor.

Judge FEE. That is what they claim.

Mr. PIERCE. Of course, the issues in this case are substantially alike, and the same custom was involved in both cases. The cases had a very common historical background. And of course, there was this stipulation that much of the evidence offered should be common to both cases; that is, all of the evidence relating to plaintiff's former service. And we think that the burden of
206 proof is upon the plaintiff to show, in any event, specifically that the Commission's findings in both these cases are not supported by the evidence relating directly to that particular carrier, and we think that they have failed to point out any instance where that is so. They have failed to point out, as I believe, any case where the Commission has recognized that it was doing any such thing.

Judge McCOLLOCH. Do you want Mr. Ellis to rebut now, if it would not use your time, to place in the record his claims showing that they did go from one record to the other? Judge Wilbur says that will take too much of your time. But that is the key to this case, as far as I am concerned, from what I have heard so far.

Mr. PIERCE. The plaintiffs point also to the fact that the Commission stated that for reasons which are obvious authority should be either granted or denied to both applicants to operate over the Valley route as evidence that these cases were not fairly considered on their own individual merits. But we do not believe that this statement indicates any such thing. The fact is that both applicants presented the same character of evidence. It would have been obviously unfair under the circumstances to have denied one application and granted the other. These two carriers in the past had been engaged in a joint line operation at the time of the hearing and were handling all of the traffic part way,
207 and the two of them, of course, handled the bulk of the entire traffic between San Francisco and Portland. Now, under the new proposal, each would undoubtedly handle only part of the former traffic, and would handle it all the way; that is, over the entire distance. Obviously, under these circumstances it would have been only fair and logical to treat the two applicants alike. To have granted authority to one and to have denied it to the other would have been to cripple one and, at the same time, to overtax the facilities of the other.

Plaintiffs also contend, too, that the Commission, in effect, improperly shifted the burden of proof and placed it upon them in this case. They point particularly to the statement on Page 42 of the Commission's report that in its opinion it should give the applicants the benefit of any doubt that may exist as to whether they could operate successfully over the routes authorized. But all that this statement amounts to is a resolving in the applicant's favor of conflicting testimony as to whether this operation could be successfully conducted, and to a determination that plaintiff, in effect, had satisfied its burden of proof; not to a shifting of the burden.

Necessarily, the subject of the success of any future venture is a matter of some guesswork and uncertainty. For the Commission to require proof of the success of every future enterprise beyond all reasonable doubt would obviously have a stultifying effect upon the right of any carrier to institute new operations.
208 That the Commission did not shift the burden is also indicated by the fact that it did deny parts of the application which it found were not supported by the evidence of public need.

Now the argument is also made that the present decision is inconsistent with the Commission's decision in another public-convenience-and-necessity case relating to the Oregon Express. But the Supreme Court has on many occasions specifically pointed out that the courts cannot concern themselves with the alleged factual inconsistencies in decisions of the Commission. But, in any event, we do not believe there is any inconsistency here.

In the case to which reference is made, Oregon Express had already a certificate to operate between Portland and San Francisco via the Coast route, and it sought authority to operate between these same two points over the Valley route. And the Commission denied its application on the ground that it was a new operation for which there was no showing of public convenience and necessity. There, however, the applicant made no showing of any public need for this service, unlike the situation here, as the report states. The applicant there was merely contented with showing that it could operate more economically and with less hazard to the public over the Valley route than over the Coast route.

Finally, the contention is made that the record in the present case was closed on October 29th, 1940, and that the Commission's decision fails to take account of certain subsequent changed conditions, particularly those resulting from the war. It is con-
209 tended that the Commission's denial of plaintiffs' petition for rehearing, in which they set forth these changed conditions and offer to submit proof of them, denied them a fair hearing within the due-process clause. Reliance is placed particularly on the Supreme Court's decision in the Santa Fe grain-rate case, the Atchison case. There the Supreme Court held that the failure of the Commission to reopen a case in which it had prescribed grain rates in the entire western part of the country for railroads to permit the showing of cataclysmic changes, economic changes which had been accomplished by the economic depression, amounted to a denial of a fair hearing and an abuse of the Commission's discretion. But we think that case is entirely different from the present one, because there *there* was never any challenge of the alleged changes made by any of the other parties to the case, nor was there ever any showing made by them that such changes were immaterial.

Here applicants filed extensive replies, both O-N-C and Consolidated Freightways filed extensive replies to the petitions for rehearing, which were submitted by the plaintiffs, and those are in evidence before this Court.

We think that the case is instead ruled by a recent decision of a three-judge court, in which Judge Wilbur sat, in North Coast Transportation Company against United States. We have sub-

mitted copies of the decision, which is not yet officially reported.

There, too, the Comission had granted a certificate of public
210 convenience and necessity on October 6, 1942, on the basis of a record closed October 5, 1938. There the record was even farther behind than this one. Protestants in that case filed a petition for rehearing setting forth alleged changes of circumstances since the close of the record. Particularly they alleged that in view of certain O. D. T. regulations applicants would be unable to carry on at all the operations which they had been authorized to conduct. And just as was done here, the applicants in that case then filed extensive replies refuting or denying the materiality of the alleged changes, and the Commission having both the petitions and the answers thereto, just as they did here, denied the protestants' petition for rehearing. And that court held that this was not an abuse of discretion within the doctrine of the Santa Fe case. And particularly it pointed to the language of the Supreme Court n United States against Northern Pacific Railway, where it said that the rule of the Santa Fe case, while it tended to safeguard substantive rights, must not be invoked if its application would disenable the Commission to protect the interest of the public.

In the present case the petition of plaintiffs and replies of applicants, if they are read together, we think make it clear that the Commission did not abuse its discretion in denying these petitions for rehearing. In the first place, the petitions allege that since the hearing applicants no longer interchange freight with each

other, but the Consolidated has an interchange arrangement
211 with Mitchell, another carrier, and that O-N-C had an interchange arrangement with Oregon Express, and that both companies now allowed their loaded trucks to go over the entire route. In other words, they urged that some of the previous difficulties in interchange had now been abated.

The applicants in their reply admitted this change, but they pointed out that the operating rights of the companies with whom interchange was made were uncertain and that the changed service was temporary, unstable, and did not constitute a permanent, reliable single-line service which would serve the entire area, for which on the record the shippers had expressed a preference. Secondly, the plaintiffs in their petition for rehearing, urged that under the ODT speed limit of 35 miles an hour, the applicants could not meet the expedited service which they had proposed in the Commission's original hearing. This is scarcely a change of circumstances, because on page 26 of the Commission's present report, in a footnote, the Commission takes notice of this thirty-five mile speed limit. And aside from that, the applicants' reply to this portion of the petition—that is, the applicant Consolidated—

pointed out that under this joint service with Mitchell since the date of this hearing it had been making these proposed faster deliveries despite this speed limit and without violating it.

Also it was pointed out in this petition for rehearing that many of the shipper witnesses desiring this service might have gone into military service or gone out of business or for other reasons. But the applicants again pointed out in reply that their own
212 business had greatly increased over their new joint line operations, and also they furnished figures to show that the plaintiffs' business had increased during this period. In fact, the plaintiffs' own petition for rehearing admits that their business has increased.

Finally, the plaintiffs assert that their service had improved in the interim, and that they had added several mechanical refrigerating units. The applicants say again in reply that none of the existing operators, either because of restrictions on their certificates or because of their own limitations, were yet furnishing adequate single-line service between Portland and San Francisco. Certainly, it was well within the Commission's discretion under these circumstances to determine that there had been no material change between the interval of the close of the hearing and the petition for rehearing. The applicant, however, says that the war has greatly increased rather than diminished the need for greater carrier service. The change of circumstances here, unlike the situation in the Santa Fe grain rate case, only furnishes additional support for the Commission's conclusions rather than pointing to the invalidity of them.

So we think that for these reasons the complaint should be dismissed.

Mr. Berol. If the Court please, I am here on behalf of Intervenor Oregon-Nevada-California Fast Freight, and I do appreciate the opportunity of being heard.

I think that fundamentally we might recognize, to begin
213 with, that the scope of review insofar as an order of the Interstate Commerce Commission is concerned is limited, and as was said recently in Rochester Telephone Company vs. U. S., 307 U. S. 125: "Only questions affecting constitutional power, statutory authority, and the basic prerequisites of proof can be raised. If these legal tests are satisfied, the Commission's order becomes incontestable."

Now it is our position here that these legal tests are all readily satisfied. Of course, the courts have held frequently and consistently that it is not the province of the court to determine as to the wisdom of the action of the Commission or to determine as to whether it would exercise its judgment in the same light that the Commission did. The underlying test here is as to whether

there is substantial evidence in this record to support the order made by the Commission.

Now the plaintiffs here are objecting to the form of the order in which the Commission made its decision here. With the background that I can relate here very briefly, it will appear that their objection goes to the form and not at all to the substance. While there may be some questions about the form that may be subject to question from the standpoint of desirability, there is nothing about the underlying substance of that decision that does not fully comply with what the Commission is required to do.

In order to trace briefly the history of this thing, these two applications were filed close together. They were set
214 for hearing concurrently with the understanding that one case was heard for a day or two or two and a half days, and when that particular applicant was ready to rest, at that particular time the other applicant commenced, and hearings were held in that manner on several occasions in Portland, Oregon, as I recall, and on several occasions in San Francisco, California. And as to one portion of the evidence, which constitutes practically the entire case of protestants, the matter was consolidated so that all the evidence offered by the plaintiffs here was offered at one time and was made applicable to both records at the same time.

Now, these plaintiffs here would leave the impression with the Court that the Commission, instead of handing down separate reports, as it might very well have done, because it combined both cases in a single report, they would leave the impression here that the Commission actually consolidated the two cases; that the Commission actually used the evidence in one case in order to support the decision in the other case. And that, if the Court please, is the farthest thing from what happened here.

Now fundamentally, I think, we might as well understand that there is nothing of itself that is wrong with either a court or a commission taking two companion or related cases and deciding them in the same opinion. Now the Supreme Court has done it frequently, and the case that comes readily to mind is the combination case of Manufacturers Railway Company and St. Louis & Southwestern Railway vs. U. S. and I. C. C., and
215 the Manufacturers Railway Company——

Judge FEE. I call counsel's attention to the fact that has nothing to do with this case at all. That is not the claim that is made in this case. Two separate cases were taken and an opinion written about one of them——

Mr. BEROL. I understood that was one of the objections. The other objection, of course, was that the evidence was taken from one and used in the other one.

Judge FEE. I don't think that there would be any difficulty about that. I am telling you right now, if that is the point in the case, I don't think there could be anything to it.

Mr. BEROL. You mean with respect to writing one order covering both decisions?

Judge FEE. Yes.

Mr. BEROL. Then I will drop that point, and I will go to the next point that is raised here by the plaintiffs, and which I understand to be that, for example, in deciding the Consolidated case and giving a certificate to Consolidated Freightways, the Commission used evidence that was put in in the Oregon-Nevada-California Fast Freight case, and vice versa.

Now all we have to do is look at the decision of the Commission itself, where it becomes clear that that is not what was here done. Now if we follow the decision of the Commission, the Commission first treats each application separately. On Sheet 2, as I recall,
it specifies the authority sought by each applicant. On
216 sheet 3 it discusses particularly the evidence of Consolidated
with respect to its service, and at the same time it discusses separately the evidence of O-N-C with respect to the service that it performs. On sheet 4 the Commission similarly treats each matter separately, discussing in the case of Consolidated the type of service that Consolidated proposes to offer here, and in the case of O-N-C similarly it separately discusses the evidence offered by O-N-C as to the type of service that it proposes.

Now to continue on with the decision itself, we must examine that decision to determine the basic factors upon which the Commission decided that these certificates must be issued. Now we must examine these basic factors, and I propose to do so with each of the basic factors that caused the Commission to grant the certificate to these two applicants, and then the question is raised as to each of these basic factors or secondary findings of fact, if you please, as to whether in the case of Consolidated there is sufficient evidence of record in the Consolidated case to support that finding of fact. And, similarly, when we come to the case of Oregon-Nevada-California Fast Freight——

Judge MCCOLLOCH. Regardless of whether they crossed over into the other record?

Mr. BEROL. Oh, no; I won't agree with that. If they crossed over into the other record it may be error. But I say here that there was no crossing into the other record, because every one of these basic findings of fact that the Commission made in order
to support this certificate, there is substantial evidence in
217 the record of Oregon-Nevada-California Fast Freight to
justify the findings made in that connection, and there is

likewise substantial evidence in the separate record of Consolidated to support the certificate that was granted Consolidated.

Judge McCOLLOCH. Yes, that could be true, and they will might have crossed over into the other record.

Mr. BEROL. Well, of course we have no way of determining unless it appears in the decision itself that the Commission crossed over into another record.

Judge McCOLLOCH. Mr. Ellis claims that it does.

Mr. BEROL. I would like to be shown where it does, if it does.

Judge McCOLLOCH. He cited the book and page this morning. Why don't you treat the book and page citations?

Mr. BEROL. I am about to do so, your Honor. Now considering the specific and underlying factors that caused the issuance of the certificates involved here, what are they?

First, there is the question of expedited service, and in this particular decision here the Commission discusses the question of the expedited service that Consolidated proposed into the States of Washington, Eastern Washington, Eastern Oregon and Idaho. Now in the O-N-C we did not make any similar proposal. Consequently, the discussion of the Commission is limited to Consolidated in that particular phase. When we came to a discussion
of expedited service between San Francisco and Portland,
218 what are the facts? O-N-C testified and brought ample evidence to show that there were delays taking place in the service between Portland and San Francisco at the present time. Similarly, Consolidated offered testimony to the same effect. Now if we can conceive that the testimony offered by both applicants on that particular issue was similar, and that there is ample testimony in each individual record to support that finding, is there anything wrong with the Commission discussing the factor of service between Portland and San Francisco in one paragraph instead of two? Now that is all that is involved here.

Now the Commission says in considering the expedited service that this will result in an expedited service between San Francisco and Portland and eliminate the delays. Now those delays were applicable to Consolidated because Consolidated started from Portland and moved to San Francisco, and Consolidated so testified. Those delays were applicable to O-N-C because O-N-C commenced at San Francisco and moved to Portland, the O-N-C- so testified. Therefore, there is substantial evidence in the record to indicate that the case of expedited service is supported independently in the Consolidated record and is supported independently in the Oregon-Nevada-California Fast Freight record.

Now similarly, take the second basic finding or factor upon which the Commission granted a certificate, namely, the question of mechanical refrigeration. It says what? That shippers testified to

219 the need of mechanical refrigeration in handling their dairy and farm products. The record amply shows that shippers called by the O-N-C so testified, and shippers called by Consolidated so testified. The record also shows there was only one carrier—Pierce—that had only one piece of equipment that was mechanically refrigerated. Now is it necessary for the Commission to write in two paragraphs that shippers of Consolidated want refrigerated service and shippers of O-N-C want refrigerated service, when only one carrier with only one piece of equipment is providing mechanical refrigeration? Now certainly, if the Commission had used two paragraphs to repeat that same issue, no objection could have been made here by these plaintiffs. But the Commission said that in one paragraph. Now if it applies to both and is substantiated in the record of each applicant, that is all that is required here.

Now similarly, if we take the situation of intermediate points service. The Consolidated application, moving southbound, south of Medford to San Francisco, proposed intermediate point service. The Oregon-Nevada-California Fast Freight application moved northbound from Medford to Portland and proposed to serve all these intermediate points. Now Consolidated testified, and there is ample evidence in the record, that they proposed to give service to all of these intermediate points. Similarly, O-N-C testified, and there is ample evidence in the record—in the O-N-C record—that they proposed to give service to all these intermediate points.

220 The record fully demonstrates that the only carrier at that time that had authority to serve all of these intermediate points was Pierce, and that Pierce, until these applications were filed and these hearings were about to commence, offered that service only one day a week, if you please; that after the filing of these applications he stepped up his service to a daily service, which was limited, I think, to one or two trucks, as the decision shows. Now certainly, if the Commission had written two paragraphs, one stating that O-N-C proposed to serve all intermediate points, and the other stating that Consolidated proposed to serve all intermediate points, and in each paragraph it stated that only one carrier had authority to serve such intermediate points and that is not enough, these plaintiffs here could have made no objection. Now the only reason they are objecting is because that is discussed together. Well, the facts, if you please, are similar. Both applicants here proposed to serve all the intermediate points. The fact that only one carrier offered that kind of service to intermediate points, and then in a limited way, applies equally to one application as it does to the other. Now certainly, under these conditions, there can be no contention here that evidence was lifted out of one

case to bolster the other, because it is not necessary. The same type of evidence is present in each of the records.

Now that is why I say—and I could go on, for example, with the basic factors that underlie the Commission's findings that a
221 single line service, if you please, between San Francisco and Portland is more advantageous to the shipping public than is a joint line service under which the carriers connected at Medford and interchanged their traffic.

Now the Consolidated record is replete with evidence of the advantages of single line as against dual line service. The O-N-C record over here is replete with evidence of exactly the same character. Both applicants here proposed exactly the same type of service, namely, a single line service instead of a dual line service. Now again, I say if the Commission had discussed these factors in separate paragraphs, considering the O-N-C in one paragraph and considering the Consolidated in another paragraph, then certainly the plaintiffs would have no cause for complaint here, nor would they be here complaining of it. But because the Commission considered them together, they are here complaining and trying to make the Court believe that the Commission pulled evidence out of one record in order to bolster the other. Now as I have already pointed out with these factors, there isn't any necessity for that.

Now similarly, with respect to the question of increased traffic, which is one of the elements that the Commission took into consideration in granting these certificates, the O-N-C record shows increased traffic and the Consolidated record shows increased traffic, and the joint record does. Now it doesn't make any difference whether the Commission treats them in individual para-
222 graphs or treats them together. That, I say to the Court, is a matter of form and not of substance.

Now if there is any one of these basic findings which underlies the two certificates issued here by the Commission—if any one of these findings, for example, in the O-N-C record is not supported by the evidence, and by substantial evidence, and if the Commission took evidence from the Consolidated record in order to bolster such lack of evidence, then I say that these plaintiffs would certainly have plenty of ground for complaint here. But that, if the Court please, is not what happened here. Every one of these basic findings made by the Commission is substantially and overwhelmingly supported, if you please, by the evidence offered by each applicant here.

Judge WILBUR. Was this met by any contradictory evidence?

Mr. BEROL. I beg your pardon, your Honor?

Judge WILBUR. Was the evidence which you have been calling attention to, or the conclusions which you say were supported by

the evidence in each case, met by contradictory evidence in each case?

Mr. Berol. No; the evidence generally was very much similar.

Judge Wilbur. The reason I asked is this: If you had twenty witnesses on one side in one case, we will say, and forty on the other, that would be sixty, and if you had thirty witnesses opposed to them in one case and none in the other, you would have a situation where you would have some difficulty in concluding just what the effect was.

223 Mr. Berol. That is correct, but insofar as witnesses are concerned, as I recall, the O-N-C brought in some sixty or seventy witnesses and Consolidated some forty or fifty. I don't recall. The other side brought in shipper witnesses, I think sixteen in number the report states, which if my recollection serves me correctly were made applicable as against both applications. Therefore, the witnesses brought in for these plaintiffs in opposition to the applications testified in opposition to both applications at the same time. In other words, they did not testify, if your Honor please, "No, we don't want these certificates granted"; they came in and offered testimony at the instance of these plaintiffs that they were satisfied with the service they were getting from the plaintiffs. So that the testimony that was brought in by these plaintiffs was made clearly applicable and applied in both cases alike. Does that answer your question, your Honor?

Judge Wilbur. I am not quite sure that I asked you a question. You discussed a point that I wanted you to discuss.

Mr. Berol. Now that is why I say, if the Court please, that the argument raised here in regard to this particular point goes only to a matter of form and not to a matter of underlying substance. An examination of each record will show that it is amply supported, and there is nothing in the decision to show that the Commission relied or found it necessary to rely on one record in order to support the granting of the other. Each record
224 here, I submit, stands amply on its own feet with the underlying testimony that is offered in support of them.

Now plaintiffs here complain of the proposition also that the Commission assumed that the granting of one application made it necessary to grant the other. There isn't any such assumption here at all. The Commission did grant both applications, but let's consider the facts as found by the Commission. These two applicants were furnishing the service for handling the bulk of the traffic moving between Portland and San Francisco, if you please. There isn't any question about that. These two applicants were initiating substantially a large part of the traffic that originated in Portland moving south-bound, and that originated in the San Francisco area moving north-bound. Now for the Com-

mission to grant two certificates, if it sees fit, instead of one is entirely within its province. It is charged by the Transportation Act, if you please, with providing a sound and adequate transportation system for the country. And here it took evidence in both cases and decided to grant certificates in both cases. And certainly that is not only within its province, but is the fair thing to do, because the granting of one and denying the other would result in the inevitable destruction of the carrier whose authority was denied. And that, of course, is what the plaintiffs are interested in. That is what they were seeking to do before the Commission in these various proceedings, and that of course is what they are seeking to do in this court proceeding here.

225 Now I want to discuss a question raised by plaintiffs that the Commission has made inconsistent decisions here, or that the Commission has rendered other decisions that are directly contrary to what was rendered here in the same territory and between the same parties. If the Court please, that is not so.

Now plaintiff discussed a case, for example, of Oregon Express, where he says it sought a certificate of public convenience and necessity. I don't recall what the exhibit number is, but it is in the record there. You have it before you. In that particular case on its face the Commission says that the applicant merely stated that he wanted a new route for operating convenience. He did not produce a single public shipper to prove public convenience and necessity, and the Commission stated that, not having proved public convenience and necessity, the application will be denied, and it was denied. Well, that is the type of thing that these plaintiffs are contending is inconsistency.

Let's consider another type of thing they are attacking, the case of O. N. C.—acquiring—Oregon Express. Now in that case the Commission specifically stated it was not deciding any elements of public convenience and necessity, which would be decided in the case pending here today. Going beyond that, and in the second place, they say that that application was denied. The facts are it was originally denied by the Commission. I filed a petition for rehearing in the case alleging that the decision was contrary

226 to the evidence and not supported by the evidence, and the Commission granted a rehearing, and after the rehearing the Commission reversed itself and authorized the acquisition, which has since been consummated. That is the case, if your Honor please, that they tell you was denied by the Commission.

Now insofar as inconsistencies are concerned, I don't think it is worth while for me to spend much time on that, because I think this brief summary is sufficient to disclose that there isn't anything inconsistent between the action of the Commission in this case and those cases. And, if the Court please, even if they were inconsist-

ent, the Supreme Court has held that an administrative tribunal such as the Interstate Commerce Commission is not bound by rules of consistency. The case of *Virginia* Railway vs. U. S., 272 U. S., the Court says: "To consider the weight of the evidence before the Commission, the soundness of the reasoning by which its conclusions were reached, or whether the findings are consistent with those made by it in other cases, is beyond our province."

Now the plaintiffs state that there is a failure here to find that other existing services will not be impaired. Mr. Pierce already touched upon that. The decision says on its face that the Commission considered that factor and made a finding adversely to the contention of the plaintiffs here.

Now they also state that the decision is based upon the premise that the two applicants here could not get along at Medford with their interchange arrangements. Well, of course, that is
227 one of the factors involved in the case, and probably the least important factor.

I now want to deal briefly with this contention of theirs that two years and four months expired between the time that the hearing was closed and the time that the final decision was made. Now they cite, for example, the Santa Fe case, with which I am familiar, in which the Court said that by reason of the economic depression that had occurred in the meantime and the threat to the carriers' revenues the Commission erred in not granting them a rehearing. I want to point out that that case has long since been distinguished by the case of U. S. vs. Northern Pacific Railway Company, 288 U. S. 490, wherein the Court considered a similar contention and said it is not every case that must be set aside or must be granted a rehearing by reason of changed economic conditions. That is something within the discretion of the Commission. And I want to point out here several factors which are present. In the first place, they are not injured by the fact that they did not get a rehearing under the changed conditions. What are the changed conditions? They allege that the two applicants themselves changed conditions. That is true. They allege also that Pearl Harbor intervened in the meantime, and that is true. But I want to call the Court's attention that they did here exactly what was done in the Northern Pacific Company case. They waited sixteen months after the changed conditions as far as operations are concerned before petitioning for a rehear-
228 ing. They waited a similar length of time after the bombing of Pearl Harbor before petitioning for rehearing. They knew all of that time these changed conditions, but they did not petition for a rehearing because, exactly as the Supreme Court said in the Northern Pacific case, they sat silent and took the chance of a favorable decision on the record as made. And it

was only when the decision turned out unfavorably to them that then they moved in and wanted a further hearing.

Well, the Commission has ample authority under Section 141 of the Act to deny a petition for rehearing in a case of this kind, and particularly in view of the fact that the changed conditions were not favorable to the plaintiffs, but would be unfavorable to them. The changed conditions of the war increased the necessity for transportation, something that courts have taken judicial notice of. Secondly, by reason of the increased necessity for transportation, if they were granted a rehearing with that showing made, that showing obviously is unfavorable to them; not favorable to them.

This is all the time I think I am entitled to, and I thank the Court.

Mr. SCHAFER. Your Honors, I have very few things to pick up here, because the case has been well covered by those who spoke before me.

One thing I feel obliged to call to the attention of the Court is that the statements of counsel on behalf of the plaintiffs have been highly colored, and there are some discrepancies which I must point out.

229 In the first place, they would have you believe that the application of O-N-C and Consolidated to extend over each other's territory was an act of aggression of some kind. The truth is, and the Commission's report recognized it, that they pioneered this service, and they hauled a large volume of freight to the half way point, where they interchanged it and mauled it over and reloaded it and sent it on through. These petitioners here came along later, or these plaintiffs came along later, and attempted to prove their public convenience and necessity case before the Commission. And in those cases they pointed to the joint service as being inadequate for the public needs. And they won their cases, even though the connecting carriers, O-N-C and Consolidated, at first protested their applications and said, "Our service is really adequate; we are doing the best we can and we can take care of all the traffic." Nevertheless, the Commission adjudicated that that joint service was inadequate. Then these two carriers filed their applications to go through after the Commission had adjudicated that their joint service was inadequate. They reasoned that each could haul half of the freight all the way through and make more money than they could jointly hauling all of the freight to the half way point and interchanging it, because they would get rid of the cost of rehandling it at the midway point, and each would give a better service because they would save the time it took to handle the freight at the midway point.

Now another thing stated by one of counsel is that
230 Consolidated incorporated the testimony of O-N-C witnesses which they thought would support their case. The fact is that there were witnesses present who testified that they intended to appear for both applicants. And when that became clear it was agreed, with the consent of these plaintiffs, that the testimony of that witness in one case could be adopted or incorporated by reference to the other case, because the witness was going to testify in both cases and it was just a little time saver to which these plaintiffs agreed fully.

Now the most flagrant misrepresentation to this Court that has been made today is the contention of these plaintiffs that the decision of Division 4 of the Commission in Consolidated—Purchase—Mitchell case was inconsistent with the result reached in this case. Consolidated filed a reply to the petition of the protestants to the Commission—it is now Exhibit No. 9 in this case—which answers that fully, but I want to touch this point here to show the Court what is being attempted here. The protestants say that the findings of the Commission in this case are in conflict with the determination of identical issues by Division 4 in Consolidated—Purchase—Reymers and Mitchell. That application was denied by Division 4 of the Commission, and the petition to the full Commission was denied, so it did deny Consolidated the right to purchase Mitchell. These plaintiffs, then protestants, in their brief to the Commission at that time said: "The
231 examiner and the Commission should take judicial notice of certain cases"—that is the instant case and the application of Oregon-Nevada-California Fast Freight and Consolidated—"which are now pending before it which relate to motor carrier operations between Medford and Klamath Falls, on the one hand, and San Francisco Bay district on the other. We do not mean to suggest that in deciding the case at bar the Examiner or the Commission should retry or determine or prejudice the issues in any of these cases, and that is neither desirable nor necessary." It states further: "It will be noted from the foregoing that we are not suggesting to the Examiner and the Commission that the issues in those cases should be determined in the instant case."

Now they come before you and say that the issues were decided in that case. I want to read you what the Commission said in its report, which is 36 M. C. C. 623. This is from the Commission's report: "Protestants request that we take judicial notice of the issues involved in certain proceedings now pending before Division 5 which relate to motor carrier operations over the routes involved in the applications considered herein. We will take

cognizance of the fact that the aforementioned applications are pending and of the authority therein sought, but obviously we may not give consideration to any evidence, not incorporated in this record, which may have been adduced in proceedings on those applications." Then the Commission says: "Nothing herein contained is to be construed as prejudicing action on appli-
232 cant's pending Section 207 applications.

Now the Commission said that in response to their own offer to let this case be decided on its own record, and yet they come before you here and say that the Commission's decision in that case adjudicated the question of public convenience and necessity. I think Mr. Berol mentioned that the same factor was true of the O-N-C—Purchase—Oregon Express case. The Commission expressly saved for determination in this case the question of public convenience and necessity. It is right on the face of the report.

Another extravagant statement, it seems to me, was made by counsel. They say that they cannot account for the Commission's language which said: "For reasons which are obvious authority should be either granted or denied to both applicants to operate over the Valley route." They carefully omit the sentence immediately preceding that. The language of the Commission's report is as follows: "As seen, Consolidated and O-N-C transport the bulk of the traffic between San Francisco and Portland. For reasons which are obvious authority should be either granted or denied to both applicants to operate over the Valley route." That point has already been covered here, that to grant to one and deny to the other would be to overburden one and destroy the other.

I think I will give Mr. Crenshaw the rest of my time, if he cares to use it.

233 Mr. CRENSHAW. If it please the Court, I don't know whether Mr. Crenshaw wants any time or not. As I understand the Court's question here, we have about reduced the thing down to a question of whether or not the Commission is here deciding the Consolidated application on the basis of evidence which was in the record of O-N-C and vice versa. If I understand the questions of the Court, that is about the only basis here that could be used to disturb or set aside this Commission order.

I don't know whether the Court has any questions to ask me or not, but I will use just a little of my time to talk about that mingling of the record.

I could imagine the great concern, perhaps stimulated by the amazing imagination of plaintiff's counsel here, in interpreting

some of this thing that perhaps the Commission has here just thrown two big files like this together and gone ahead without reference to which was which, and figured out both together without reference to which one had the particular evidence. That is quite untrue, because I have had the records in my office looking them over. These are taken from the records, and the dockets are right there. There are two tremendously big dockets in each case, just a stack of books this high, and they are both separately numbered and separately maintained. The only possible basis for the effort to confuse here which has been made is in the fact that during the course of these hearings there was a mass of this evidence, as these gentlemen have already called the
234 Court's attention to, that was presented in behalf of both the applications, and to save time they all agreed among themselves that a portion of it over here could be put over here in this other record, and you will find those parts that were so stipulated are incorporated in both records. It is just like anybody would agree that a showing could be offered in a court proceeding and it is accepted as evidence in it, and when it is it is put in there. Now that is not mixing the two records. It is simply providing an orderly way by agreement to put part of the evidence that was taken—I don't know which case was heard first; I have forgotten, but we will say that a witness is on the stand testifying in the first hearing for Consolidated, and they discover that this same witness would testify exactly the same thing in the hearing of the O-N-C, so they merely agree that that witness' testimony should be accepted and a copy of it put over in the O-N-C file. The same parties were in both cases, and they all made that agreement, and that is all that means. That is how much commingling there was.

But basicly the question here is whether or not the Commission has referred to a fact finding in the course of its report as supporting both of them, where they have discussed some little phase of these things together in one paragraph, whether or not there is evidence in the record in both of them. If there is evidence in both of them, then they did not pick it out from one and use it in the other, because it is in both and they did
235 not have to do that. It is only by a process of imagination, where evidence is in both of those records, that you could say the Commission has picked it out of one and used it in the other. I don't see where that sort of imagination should be indulged in in order to condemn the Commission.

Mr. Schafer just read here from another report where the Commission said, "We can't use the record evidence in that other record over there to decide this case." It is something that is so obviously and definitely known to that Commission—and when

we talk about cases which have been overruled by the Commission because of such things in the past, we mentioned one in Omaha. I tried the case myself. I know what it was. It is quite different from this case. They referred in the record in Omaha to something that was not even in this decision here—in some other case they picked some fact out of another record entirely, and it was completely confusing and I recommended the Commission take the order back. And to be frank with you, if there were any such confusion in this to my mind I would never be here asking this Court to sustain this order, because I would certainly have known it and the Commission knows it too, and I would have recommended it and they would have taken this order back and gone over it again so there would not be that confusion. But to save my life I can't find any such confusing situation in it. To me it seems to be one of the clearest, most carefully prepared and thorough reports I have ever seen the Commission
236 write.

Now the thing that prompts this effort to confuse is that fact that they have all overlooked that this extension of service here is a substitute which these two applicants proposed to make of a thorough service for that which they had already maintained as an interchange proposition. The Commission goes into careful detail to show that. There are a great many things connected with these two carriers' applications that dovetail, interlock and work together, and concern both of them exactly alike. So in some instances, where there is a matter of common evidence in both cases, of common concern to both applications, the Commission has disposed of it by discussing it in a paragraph with reference to both carriers. And that certainly cannot indicate to anybody's imagination that there was not evidence in both cases.

On the other hand, this whole report from the very beginning speaks of two considerations: In the first place, on the second page, they set up under "Authority Sought" what was sought by one and what was sought by the other. Next, under "Applicants' Present Service" they meticulously set out what the Consolidated service is, and then they separately have considered and stated what is the O-N-C present service. When they pass that, they come over to the proposed service, and again they state it in different terms, one for Consolidated and one for O-N-C. And then they go
237 along and they discuss, for instance, the shipper witnesses—that is, in general, because we did have a vast number of witnesses there, some of them testifying, as we have already found, in both cases—saying they are discussing general questions of common concern when they do that.

Now next there is about six pages more here in the report to discuss the protestants' service. That is something that is common

to both of these cases, because it is one route, and substitution is involved, and they discuss each one of these protestants separately as to what the service is. Why? Because that evidence is in both cases and it relates to both applications. And so they set them up separately that way.

Now when you get down to the public convenience and necessity, if the Court would carefully read this—I can't go into every detail of it; it would take an enormous time—every once in a while you will find in here some reference is made to a particular phase of the evidence that applies to only one of them and not to the other. They have even been that careful with it. And public convenience and necessity, they discuss it separately for each one of them, and right on through the same way, and when we get down to the end of it they have said: "Obviously, if we are going to grant one application here the other one should be granted; if we are going to deny one the other should be denied." It is so obvious that that is what the Commission said.

I think it is obvious to everybody on earth except to the anxious eyes of a person desperately seeking some hazy basis
238 upon which to attack the lawfulness of this order. That is all that the Commission meant by that. It was so obvious that even the plaintiffs should have seen it. I don't believe that anybody could read this report over carefully without realizing that the Commission has here done what it has been taught by adverse court decisions for a number of years to do, to separate or segregate its consideration of it; and they have not, in fact, even dreamed of deciding one case on the basis of the evidence in the other.

There is just one other thing I would like to call attention to, and that is the copy of the decision of the California court in the North Coast Transportation case. That is with reference to the sufficiency of the findings. We have almost identically the same situation so far as the sufficiency of the findings is concerned here that was in that case. They were both based upon public convenience and necessity. And I have not seen in a good long time a more capable and complete and thorough statement of the law as to the requirements for those findings than is right there. They were sustained there and, by the same token, I don't see how they could be disturbed here for any such reason as that. Also that case had the question of changed conditions, and disposes of it perfectly on the basis of the Northern Pacific case as compared to the old Santa Fe case. So if it is good there it seems to be good here. I don't know how we could avoid that.

239 But, fundamentally, I would like to [illegible] attention of the Court to one thing—maybe I am going further than I intended to: The thing here is that these carriers—and I would

not accuse one without accusing the other one, because the Court can see from this that they are constantly trying to cut each other's throat before the Commission, when one goes in and asks for a "grandfather right"—we had that in the Pierce case, and I was glad to come in and try to defend that case. I did it with the help of this Court in an able decision in the McCracken case. It might be of interest to know that the same question had been presented recently to the Supreme Court and was acted upon favorably there in the Chicago & St. Paul Railroad case, decided on April 10th, quite recently, involving the same sort of an idea that was in the McCracken case. Now we have that reversed here. In the Pierce case that I was out here two years ago to defend, these people were not appearing as plaintiffs to try to set it aside in that case, but they had been protestants before the Commission. And so here today we have Pierce in here as plaintiff trying to do exactly the opposite to what we were trying to defend for Pierce before, when the basis upon which he stood in that case is far less sound than the one here, because that case had involved a grandfather right and this is a public convenience and necessity right.

It is a strange thing, but the minute the Government and the Commission issues a certificate to either one of these motor
240 carriers to go out here and operate over a certain highway, he accumulates some sort of an idea in his head that he owns the highway, owns the people who ship over it, and owns the United States Government, and you must not come out here and give somebody else the right to operate over that same highway. That is not the conception that the Commission has of it. They do not have a monopoly of transportation; and it is a mighty good thing, as his Honor Judge Fee pointed out in the McCracken case, that Congress has undertaken this regulation and made some provision to take care of the public interest involved in it. And that means we are going to have to use Section 207, better known as convenience and necessity, just as this proof indicates here, where you have a vast motor population in this area and tremendous increase in the volume of shipments going on regularly. Here the thing the Commission is doing is trying to serve that public and not trying to grant to these people a monopoly on the highways of Oregon, Washington, and California. They own no such right, and I hope the Commission will keep cutting them down and I am sure this court and all other courts will agree with that thought. It is so stated right here in this North Coast case that I have referred to, that they do not own a monopoly on our highways. And that is largely what goes on here. They are trying, by virtue of this confusion, to maintain a monopoly and say that the Commission cannot give to these carriers a little extension to permit a better service for these people out here who have a bigger volume of

shipments. That is the fundamental back of all such cases
241 as these.

Mr. Ellis. May it please the Court, I have no apology for agreeing with Mr. Crenshaw in the McCracken case. I think the decision which he knows cites amply upholds the decision of this court. But I do point out my position here is in no way inconsistent with the position taken there. That was a grandfather case which was reopened.

Judge Wilbur. Were you in that case?

Mr. Ellis. Yes.

Judge Wilbur. I don't think you have to explain the inconsistency unless you want to.

Mr. Ellis. I insist there was no inconsistency. I merely point out that in that case there was a rehearing, and all of the parties were given an opportunity to be fully heard, which we have not been given here.

I have listened very carefully for an explanation from some counsel on the opposite side of the case which would justify the Commission's action in writing an opinion as it has written this one, and I have yet to hear the first explanation of what was actually done. We were not here talking about the formal manner of statement, or about the right of the Commission in one opinion to discuss evidence in one or more cases, or about how many paragraphs they used to make their statement. We are here complaining about the fundamental right to have our case decided
242 separately and on the evidence in that case and none other.

Counsel have been careful in their analysis of this decision to call attention to Pages 1, 2, and 3, the preliminaries of the report dealing with the history of the operations, dealing with the substance of each application, which I agree the Commission has set out in minute detail and separately. But when they come to decide the case, when they get to sheet 15 of the report and start to talk about public convenience and necessity, the distinction completely disappears.

I don't think it should be necessary to point out a lot of general instances wherein the Commission has not identified from which record they took a given statement. I think they have told you in the early stages of the decision that they have determined to grant the authority in both cases or to deny it in both cases. And they practically explained that because they have reached that determination it was necessary to treat the entire record as one, and they proceed under the heading of public convenience and necessity to do just that.

Now I think Mr. Crenshaw meant just what he said when he told you he would not be here defending the case if he thought the Commission had done what I contend they have done, but I

don't think he knew and I don't think he could have found out in the time at his disposal. Glancing through his trial brief, I find on Page 26 that he urges upon this Court the evidence of the University of California Professor of Economics, who
243 expressed opinions in the Consolidated case. That is the first paragraph of the Commission's decision on public convenience and necessity, a long paragraph going into a lot of detail about what that person testified. But not one word to suggest that the witness testified only in the Consolidated case.

Another typical example concerns the service to Eastern Oregon and Eastern Washington points. The Commission says in its preliminary statement in discussing the Consolidated case that Consolidated has proposed this service that would result in twenty-four hour faster service to Eastern Washington and Eastern Oregon and, I believe, Idaho and Montana. It identifies Consolidated in that case. But over in another paragraph in the opinion the Commission definitely applies it to both cases. On Sheet 15 they make the finding that summarizes their finding thusly: "Proposed speed-up of service. The proposed faster service has been discussed hereinbefore in some detail. Briefly, the proposal is to save as much as twenty-four hours in service between San Francisco and certain points." Then, after discussing contrary evidence relating to the impossibility of performance, they make one conclusion for both cases, and this is it: "We conclude that applicants should be given the benefits of whatever doubts may exist as to their ability to maintain the proposed time schedules." But the fact is that in the findings or discussion of public convenience and necessity, they apply that evidence dealing with Eastern Oregon, Washington and Idaho as though it applied in
244 every respect to the proposal of the Oregon-Nevada-California Fast Freight, which had nothing to do with that proposed service. It is stated at another point that one public witness in particular is interested in the proposal of Consolidated to improve the service between Seattle and intermediate points in Oregon south of Portland. The Commission said that the proposal is to render overnight service from Seattle as far south as Eugene and first-noon service to Klamath Falls. It is obvious that this witness testified only in the Consolidated proceeding. O-N-C does not operate north of Vancouver, Washington, and did not propose to operate north of Vancouver. That section could have had no proper application to O-N-C. Yet, in the light of the conclusion to grant or deny both applications, it becomes obvious that O-N-C was accorded the full benefit of that testimony.

The two paragraphs next following, on Sheet 16, deal with the subject of mechanical refrigeration.

Judge WILBUR. What do you mean by mechanical refrigeration?

Mr. ELLIS. Refrigeration provided by motors, compression motors, in contrast to the use of dry ice or other forms of refrigeration. The first sentence states the growth in production of frozen fruits and vegetables in Oregon and Washington, stating the exact figures in towns. I have not been able to locate these figures in the record, but they are of a character which indicates clearly they came from one record or the other.

Judge WILBUR. Have you reduced your criticism of this overlapping to some tabulated form or some written form?

245 Mr. ELLIS. I will endeavor to do that as best I can in the brief, but it is going to be difficult to make it as complete——

Judge WILBUR. It is almost impossible to follow that sort of an argument intelligently.

Mr. ELLIS. It should be done in the brief, I realize, your Honor. I will bring this to a conclusion very quickly.

Judge WILBUR. I think we all agree that you better cover that by some form of memorandum. Call it a brief or tabulation, or whatever you want to.

Mr. ELLIS. We will do that.

Judge WILBUR. With an opportunity to counsel on the other side to check it and make such criticism as they have. Perhaps you better confine your argument to your other points.

Mr. ELLIS. I will do that.

Judge WILBUR. We will give you the necessary time for this work unless you already have it.

Mr. ELLIS. I thank you for the suggestion. In concluding that point, I want to point out that under the topic "Discussion and Conclusions," on Sheet 42 the Commission has lumped together sentence by sentence its ultimate conclusion on all of these facts, and in one sentence adopts them for both cases in this language: "In view of the foregoing, we are of the opinion that public convenience and necessity require the operations set forth in our findings herein."

I believe that covers the highlights of my rebuttal,

246 and anything else that I may have to offer can well be raised in the brief.

Mr. Hampson would like the concluding argument.

Mr. HAMPSON. May it please your Honor, I shall speak a few minutes only. I have somewhat of an advantage in this case as far as this presentation at this time is concerned, and that is that I had no connection with the litigation before the Interstate Commerce Commission. I do not find myself so confused by the trees as to be unable to see the forest, nor have I been an advocate

in what has obviously been a bitterly contested, long drawn out litigation so as to have had my powers of analysis dulled and be prevented from seeing, as I believe your Honors see, the real issue in this lawsuit.

The charge is made, which I think this Court will seriously consider in determining whether the plaintiffs in this case should prevail or whether the complaint should be dismissed, and which is precise, definite and sound from a legal standpoint if it is supportable upon a factual basis, that the Commission in determining two separate cases which were separately tried permitted itself to consider in one case evidence which was part of the record in the other case and the other case only, and vice versa. It is true that the record shows by stipulation certain evidence was carried over from one case into another, but the very fact that a stipulation was made which confines itself to certain specific evidence demonstrated the conception of the parties that
247 it would be judicially improper that evidence be considered in both cases, unless the evidence had been adduced in both cases or constituted a part of the record in both cases. The other consequence which attaches to the stipulation is one which gives emphasis to the impropriety of what the Commission did rather than to sanction what we contend that it did: That the precise and definite charge of a failure to adjudicate the cases as the judicial process requires called from his Honor Judge McColloch, when the charge was made, the somewhat astounding statement, "Why, that would be dishonest." Intellectual dishonesty, of course, is the dishonesty to which his Honor referred. But I do not find it necessary to charge that the Commission is guilty of intellectual dishonesty in what it did, because the arguments adduced by counsel for the Commission and counsel for the United States indicate a belief and assert a right for the Commission to have done as a matter of law that which we contend that it did do.

Now this precise charge we make is susceptible of only one answer, or one sound answer. It is not true in point of fact. If it is true in point of fact the prayer of this complaint should be allowed. There is no sound answer to it if it is true in point of fact, as it has attempted to be made here by the attorney for the Commission and the attorney for the United States. That attempted legal argument is demonstrably unsound. They have opposed us in two ways: One, they say what you charge is not true; and I say that if that is the fact, then the contention
248 is out of this lawsuit. But they go further than that and say even if it is true, what of it, as a matter of law? And I say everything of it as a matter of law. They seem to fail to grasp, just as I believe the Commission failed to grasp—and one

of the Commissioners here has been a close personal friend of mine for years, and I have the highest regard for his ability and character—they seem to fail to grasp this: That merely because a record might have been made which would have been invulnerable to attack by any court, that the Commission could consider the matter de hors that record and reach the same conclusion, and then have still a decision which is invulnerable to court challenge. And that is not the law. If the Commission did carry over and give consideration to in the one case evidence which was only adduced in the other case, then no matter whether the Commission could have found in the one case without the extraneous evidence and the finding been invulnerable to challenge, the finding is bad and it is subject to challenge and it must be set aside if, in fact, they gave consideration to that which they had no right to consider. I thank your Honor.

(Discussion in re filing of briefs, the Court allowing plaintiffs fifteen days within which to file their brief and the answering brief to be filed within fifteen days thereafter.)

Mr. CRENSHAW. In view of the fact we are not going to file a reply brief, as your Honor suggested, in view of what Mr.
249 Hampson has just said in construing my own position as to what I just argued to this Court, I think he is badly confused over that, because if I said that the Commission has a right to take evidence out of a case over here and use it in this one, well, I don't remember it and I certainly didn't mean it that way.

Mr. WILBUR. Your time for argument has expired.

Mr. CRENSHAW. I just wanted to correct that one thing in view of the fact we are not going to file a brief.

250 In United States District Court

Reporter's certificate

I, John S. Beckwith, hereby certify that on Friday, April 28, 1944, I reported in shorthand the proceedings had in the above entitled court and cause, that I subsequently caused my said shorthand notes to be reduced to typewriting, and that the foregoing transcript, pages numbered 1 to 107, both inclusive, contains a full, true and accurate transcript of said proceedings, so taken by me in shorthand on said date as aforesaid, and of the whole thereof.

Dated at Portland, Oregon, this 6th day of May 1944.

JOHN S. BECKWITH,
Reporter.

1 *Plaintiff's Exhibit No. 1*

Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub No. 1) (BMC 8)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannon Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the states of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Washington, over irregular routes, and over the following regular routes:

Route No. 1.—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2.—Between Medford and Portland, Oreg., via Junction City and Salem, Oreg.

Route No. 3.—Between Medford and Portland, Oreg., via Forest Grove, Oreg.

Route No. 4.—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oreg., and Drain, Oreg., via Coquille and Reedsport, Oreg.

Route No. 5.—Between Redding, Calif., and Lakeview, Oreg., via Alturas, Calif.

A more detailed statement of route or routes (or territory) is contained in said application, as amended, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

COLONIAL ROOM, MULTNOMAH HOTEL,
Portland, Oregon, July 11, 1940.

2 *Appearances*

Ware & Berol by Edward M. Berol, 235 Montgomery Street, San Francisco, California, and William B. Adams, 515 Pacific Building, Portland, Oregon, appearing for the Applicant.

L. C. Jones, The Dalles, Oregon, appearing for the Port of The Dalles, City of The Dalles, Chamber of Commerce, Dallesport Development Company, and The Dalles Traffic Association, Interveners.

C. E. Holbrook, and Donald A. Schafer, 2029 Northwest Quimby Street, Portland, Oregon, appearing for the Consolidated Freightways, Inc., Intervener.

E. L. Clumpner, 1222 Airport Way, Seattle, Washington, appearing for the Pacific Refrigerated Motor Line, Protestant.

F. K. Hedges, and Thomas D. Jennings, 1001 Southeast Waster Street, Portland, Oregon, appearing for the Cascade Inc. d/b/a the Cascade Fast Freight, Protestants.

John M. Hickson, 1306 Yeon Building, Portland, Oregon, appearing for McCracken Bros. Motor Freight, Silver Wheel Motor Freight, Protestants, and Central Transfer Co., as its interest may appear.

Paul P. Farrens, 800 Pacific Building, Portland, Oregon, appearing for Pacific Southwest Railroad Association and Pacific Truck Express, Protestants.

Wm. P. Ellis, 917 Public Service Building, Portland, Oregon, and George M. Roberts, U. S. National Bank Building,
4 Medford, Oregon, appearing for the Pierce Auto Freight Lines, Inc., Protestant

O. J. Mitchell, 2814 Southeast 25th Street, Portland, Oregon, appearing for Mitchell Bros. Truck Lines, Protestant.

5–6 PROCEEDINGS

Chairman TERRIL. The Interstate Commerce Commission has assigned for hearing at this time and place its Docket No. MC 9115, Sub. No. 1, the application of the Oregon-Nevada-California Fast Freight, Inc., of 675 Brannon Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the states of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Washington, over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of United States Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California, and Lakeview, Oregon, via Alturas, California.

7 This case comes on for hearing before Joint Board No. 5, consisting of the representatives of the states of Washington, Oregon, and California. The Joint Board this morning is

composed of Charles H. Kent, Superintendent of Transportation, Department of Public Service, State of Washington; Warren K. Brown, of the California Railroad Commission, and C. T. Terril, representing the Public Utilities Commission of Oregon. Mr. C. I. Kephart, Examiner for the Interstate Commerce Commission, is present to advise the Board and assist in the development of the record.

We will now have the oral appearances.

Mr. BEROL. For the applicant, William B. Adams, 515 Pacific Building, Portland, Oregon; and Ware & Berol, by Edward M. Berol, 235 Montgomery Street, San Francisco, California. We are both registered as practitioners before the Commission.

Mr. JONES. L. C. Jones, The Dalles, Oregon, representing the Port of The Dalles, the City of The Dalles, the Chamber of Commerce of the City of The Dalles, the Dallesport Development Company and The Dalles Traffic Association. We are appearing as interveners in this case in support of the applicant. I am admitted to practice before the Commission.

Mr. SCHAFER. C. E. Holbrook and Donald A. Schafer, 2029 Northwest Quimby Street, Portland, Oregon, appearing for the Consolidated Freightways, Inc., as interveners, as their in-
8 terests may appear. We are both attorneys admitted to practice before the Commission.

Mr. CLUMPNER. E. L. Clumpner, 1222 Airport Way, Seattle, Washington, appearing for A. E. Stephan, who is our attorney, who is unable to be here this morning. We are appearing as a protestant.

Exam. KEPHART. Have you been admitted to practice?

Mr. CLUMPNER. No.

Exam. KEPHART. Are you an attorney?

Mr. CLUMPNER. No. I am appearing for the company.

Exam. KEPHART. You are appearing for the firm?

Mr. CLUMPNER. Yes.

Mr. HEDGES. F. K. Hedges and Thomas D. Jennings, appearing for the Cascade, Inc., doing business as the Cascade Fast Freight, as protestant. We are both admitted to practice before the Commission.

Mr. HICKSON. John W. Hickson, 1306 Yeon Building, Portland, Oregon, appearing for McCracken Bros. Motor Freight, Silver Wheel Motor Freight, and the Central Transfer Company.

Exam. KEPHART. As protestants?

Mr. HICKSON. The first two will be as protestants, and the Central Transfer is appearing as its interests may appear.

Exam. KEPHART. You have been admitted to practice before the Commission?

Mr. HICKSON. I have.

Mr. FARRENS. Alfred A. Hampson and Paul F. Farrens appearing for the Pacific Southwest Railroad Association and the Pacific Truck Express. Both Mr. Hampson and I are attorneys at law, and admitted to practice before the Commission. We are appearing as protestants.

Mr. ROBERTS. William P. Ellis, Public Service Building, Portland, Oregon, and George M. Roberts, United States National Bank Building, Medford, Oregon, appearing for the Pierce Auto Freight Lines, Inc., Protestants.

Mr. ELLIS. On behalf of Mr. Henry T. Ivers, I have been requested to enter his appearance. Mr. Henry T. Ivers represents the Los Angeles-Seattle Motor Express, Inc., and they wish their appearance entered as protestant. Mr. Ivers is unable to be here at the opening of the session, but will be here before the session closes.

Mr. BEROL. If the Board please, respecting the application, I am going to ask permission to amend it in one particular; and I am going to advise the Board that there will be another amendment offered later. The amendment I am asking for at the present time is authority to use the alternate route, or as an alternate route, Highway No. 58 between its junction with Highway 97 in Oregon and Goshen, Oregon, which is immediately south of Eugene on Highway 99. The proposed amendment does not contemplate the service to any point located on that highway. I understand that is a highway in the course of completion, but is not yet completed, and we were not aware of its construction at the time the application was filed, or we would have included it as a route. Now, the actual route will be Highway 97 from Klamath Falls to its junction with Highway 58, and then Highway 58 to the junction with Highway 99 at Goshen, and then along Highway 99.

Exam. KEPHART. That would include the use of both Highways 97 and 58, what is known as the Williamette Pass Highway?

Mr. FARRENS. If that No. 58 is what is known as the Willamette Pass Highway; yes.

Chairman TERILL. Is there any objection to the amendment being allowed?

Mr. FARRENS. There is no objection on my part.

Mr. BROWN. Did you say you had another amendment?

Mr. BEROL. Yes. It covers the service to certain local points in the Coos Bay area, about which we will advise the Board and interested parties later, and ask permission to restrict it; the other amendment will be restrictive, but I am not prepared to state it at this moment.

Exam. KEPHART. That will be a matter of service rather than route?

Mr. BEROL. That is correct.

Mr. ELLIS. Is Highway 97 embraced in the application of this applicant?

Mr. BEROL. What this amendment seeks to do is to use
11 Highway 97 in conjunction with Highway 58 as an alternate route, and the only reason Highway 97 is brought into the picture is because it is necessary to use Highway 97 between Klamath Falls and north to Chemult, Oregon, in order to take advantage of this newly constructed highway.

Mr. BROWN. You are not proposing to serve any territory between Klamath Falls and Eugene?

Mr. BEROL. That is correct. We are not proposing to serve any territory on that highway between any point north of Klamath Falls to, and not including, Goshen.

Mr. BROWN. Where is Goshen?

Mr. BEROL. About four miles south of Eugene, I understand.

Chairman TERRIL. You would serve Goshen?

Mr. BEROL. We will serve Goshen and Klamath Falls, but we do not propose to serve any points in between.

Mr. ELLIS. If the Commission please, this seems to be an undue broadening of the application, something we had not anticipated. In fact, it gives the applicant a new line east of the Cascades, and it seems to me it is a late date to be confronted with that type of a proposal. It really is much more of an amendment than might appear on the face of it. While they contend that they are not asking for authority to give local service, we all know that the next natural step in the pict. e is to ask for it; that is an important matter, and we feel it is too late now to ask for such an amendment.

12 Mr. BEROL. I might say, if the Board please, all we are attempting to do is take advantage of a shorter route, on a newly constructed highway.

Chairman TERILL. Are you serving any points on this route, or are you asking to serve any points on this route that you are not seeking to serve over these routes already applied for?

Mr. BEROL. No, sir. We are attempting to take advantage of this as an alternate route in order to give a faster service.

Chairman TERRIL. It seems to me that the allowance of the alternate route would be in the public interest, since it is a shortened route, and service over that highway will mean a saving in time. The Board will hold that the amendment may be allowed.

Mr. HICKSON. Now, with reference to the other amendment that counsel for the applicant mentioned, I wonder if counsel can't tell us what the proposed restrictions or amendments are going to be? It might make a lot of difference to me in my position in this case.

Mr. BEROL. I will be able to advise you after the first recess.

Mr. BROWN. Why not take a recess now?

Mr. BEROL. That could be done, if the Board so desires.

Mr. ELLIS. I would like to take exception to the allow-
13 ance of the amendment.

Chairman TERRIL. It will be noted.

Stipulation

Mr. ADAMS. Before a recess is taken, I would like to point out briefly that, last evening, in the Consolidated Freightways case, Mr. H. O. Berger testified on behalf of the Washington Manufacturers Association, and at that time I asked counsel if they would have any objection to that being incorporated by reference into this record, and there apparently was no objection. At this time, inasmuch as Mr. Berger desires to leave the city, I will ask whether any counsel have any objection to incorporating by reference the testimony of Mr. Berger into this proceeding I again ask that the parties stipulate to the incorporation of the testimony of Mr. Berger into this record.

Chairman TERRIL. Do I hear any objection, gentlemen? I believe all persons here present were also present and represented last night. Hearing no objection, it will be allowed.

Mr. FARRENS. Will the Board fix the time within which those excerpts will be furnished?

Mr. ADAMS. It will save us considerable money, when we get the Consolidated transcript, if we could copy the entire testimony.

Mr. FARRENS. That is perfectly agreeable with me, but I be-
lieve that the Board should fix some time in advance of the
14 briefing.

Chairman TERRIL. Is it going to be the entire testimony incorporated by reference, or is the testimony to be copied in?

Mr. FARRENS. It has been prohibited in other cases in this Northwest territory, for instance, in the Lubetich and Colletti cases.

Mr. BROWN. I think it would be more orderly procedure to have it physically incorporated in the record.

Mr. FARRENS. There are specific rules which require you to furnish the copy with reference to the transcript pages in the other case.

Mr. BROWN. That is, when you do it partially?

Mr. FARRENS. When you don't submit the entire transcript of that record, even though you pick out all of one man's testimony.

Mr. ADAMS. How would it be if, within ten days after the transcript in the Consolidated case is received, we will furnish you with that copy?

Mr. FARRENS. Any time sufficiently in advance of the briefing time.

Mr. ADAMS. I will ask the reporter to make a copy for each of the parties, and furnish it to them.

Chairman TERRIL. We will take a recess, and I understand there is a stipulation that is to be entered into with reference to some restrictions on service that Mr. Berol has in mind. We will now be at ease.

(Recess.)

Chairman TERRIL. We will be in order, gentlemen.

Mr. BEROL. I am now ready, if the Board please, to propose the other amendment, and that is as to local service between Drain, Oregon, on the one hand and Portland, Oregon, on the other hand: We do not propose any local service on either of the three routes between Junction City and Portland or the route between Junction City and Drain. Now, in order to clarify that restriction, it will be our purpose not to pick up any traffic at Portland or Vancouver, which is the northernmost point of service, and deliver it to any point on Highway 99 W, 99 E, or Highways No. 8 and 47.

Mr. HICKSON. Those are state highways?

Mr. BEROL. Yes, as far south as Drain, Oregon. Similarly, we do not propose to pick up any shipments originating at Drain, Oregon, or any points intermediate between Drain, Oregon and Vancouver, Washington, for delivery to any point intermediate on either highways 99, 99 E, 99 W, or state highways 47, or 8. In order to further explain it, that will apply to any traffic that will originate in Washington or other points, that will be tendered at Portland or any point intermediate between there and Drain; we will not accept any traffic for local points between Vancouver and Drain, including Drain.

As to any traffic originating at any point between Drain and/or Portland, Oregon, and Vancouver, destined to points south of Drain, we will handle; as to any points originating south of Drain, destined to points north of Drain, we will handle.

I will state that we have a similar application pending before the Public Utilities Commission of Oregon, seeking intrastate rights, and it will be our proposal to make the same restriction in this intrastate application when that application comes up for hearing.

Mr. HICKSON. As I understand counsel's proposal, he said that he intended to ask for such an amendment. I want to know whether he is going to amend the application.

Mr. BEROL. That was my intention. I am asking that it be amended in accordance with the statement that I have made.

Mr. HICKSON. Do you also make the statement that when your intrastate hearing comes up you will likewise restrict that application and amend it to cover the same territory, or cover a similar proposal?

Mr. BEROL. That is correct; that will be done.

Chairman TERRIL. The amendment will be accepted, in so far as this proceeding is concerned before the Interstate Commerce Commission.

Mr. BROWN. Does that constitute all the amendments
17 under consideration?

Mr. BEROL. That is correct.

Mr. ELLIS. I have one more point in connection with the amendment to which I object. I would like to ask counsel whether or not he proposes, under the amendment for the use of the Willamette Pass Highway, to handle interstate traffic between Portland on the one hand and Klamath Falls on the other hand, or to points intermediate between Goshen and Portland, and Klamath Falls and Portland.

Mr. BEROL. I certainly do propose to handle traffic between Portland on the one hand and Klamath Falls on the other. We propose to handle no traffic between Goshen on the one hand and Klamath Falls on the other via highways 58 and 97.

Mr. FARRENS. To be certain I understand that—I consented to your amendment, you will remember—you will neither stop your trucks to take on or unload freight at any station which is north of Klamath Falls and south of Goshen?

Mr. BEROL. That is correct. That includes all traffic. No traffic will be handled by way of delivery or pick-up on highways 97 and 58 north of Klamath Falls or south of Goshen.

Mr. ELLIS. But you are proposing a new interstate route in the transportation of interstate commerce originating at or beyond Portland and destined to Klamath Falls, and on interstate traffic originating in Klamath Falls and destined to Portland or beyond?

18 Mr. BEROL. In so far as the route is concerned, Klamath Falls to Portland are already within the application as two points to be served.

Mr. ELLIS. My objection is already in the record.

Mr. BEROL. I think it would expedite matters if I be permitted at this time to distribute the exhibits and have them marked for identification.

I will ask that the first document, being a map having on it a legend with a red line showing the routes now in operation, and a yellow line showing the proposed operations, be marked as identification No. 1.

Chairman TERRIL. It will be marked as "Exhibit No. 1" for identification.

(Exhibit 1, no witness, marked for identification.)

Mr. BEROL. I will ask that the exhibit be deemed amended so that it will appear that a yellow line has been marked on Highway 97 between Goshen, immediately south of Eugene on the map, to a point north of Klamath Falls, so as to cover the amendment proposed this morning. I ask that that be understood as being added to the exhibit, and that the exhibit will be understood as being amended in that respect.

I will ask that the next document, being two sheets, entitled "Statement showing balance sheet of Oregon-Nevada-California Fast Freight as of May 31, 1940", be marked as "applicant's Exhibit 2" for identification.

19 Chairman TERRIL. It will be marked.

(Exhibit 2, no witness, marked for identification.)

Mr. BEROL. And I will ask that the next exhibit, a one-page document, entitled "Statement showing Operating Revenues and Operating Expenses of Oregon-Nevada-California Fast Freight, Inc., from July 1, 1939, to May 31, 1940," be marked as "Exhibit 3" for identification.

Chairman TERRIL. It will be so marked.

(Exhibit 3, no witness, marked for identification.)

Mr. BEROL. And the next document, consisting of one page, being a statement entitled "Statement Showing Yearly Revenues Between 1934 and 1939 and Revenues for Eleven Months Ending May 31, 1940, of Oregon-Nevada-California Fast Freight, Inc., and its Predecessors and Interest, J. A. Gritsch, d/b/a Oregon-California Fast Freight and Nevada-California Fast Freight," be marked as "applicant's exhibit No. 4."

Chairman TERRIL. It will be so marked.

(Exhibit 4, no witness, marked for identification.)

Mr. BEROL. I will call Mr. Gritsch.

Mr. HICKSON. For the purpose of the record, on behalf of McCracken Bros. Motor Freight, I wish to change their appearance as intervener in support of the present application.

Mr. BEROL. I will state for the information of the Board and the interested parties, that it will be our purpose this morning,

20 in so far as operating testimony is concerned, to offer through the witness Gritsch such operating testimony as may enable the Board and counsel to follow the details of the application to the end that they will be sufficiently informed to examine public witnesses; and I will then ask permission to produce the public witnesses, and offer further operation testimony at a later time.

J. A. GRITSCH was sworn and testified as follows:

Direct examination by Mr. BEROL.

Q. Your full name is Joe A. Gritsch?

A. Yes.

Q. You are the President of the Oregon-Nevada-California Fast Freight, Inc?

A. I am.

Q. You are familiar with the details of the application pending here?

A. Yes.

Q. Now, how long has the Oregon-Nevada-California Fast Freight been in operation?

A. Since July 1, 1939.

Q And was that the date that the corporation commenced the operation of the businesses previously operated?

A. Yes.

Q. How long had the businesses which the corporation took over operated prior to that time?

21 A. Since July 10, 1929.

Q. And continuously since that time?

A. Yes.

Q. Have you prepared a map showing the territory served by your company at the present time and the territory which you now propose to serve?

A. Yes.

Q. In addition to the routes which you propose to serve as specified in Exhibit No. 1 for identification, is there an additional route which is covered by the application, but not shown on the map?

A. Yes.

Q. And which one is that?

A. On Highway 58.

Mr. BROWN. Is Highway 58 a state highway?

Mr. BEROL. It is a state highway.

Chairman TERRIL. 97 is a United States Highway?

Mr. BEROL. 97 is a United States Highway, I understand.

The WITNESS. There is a route from McMinnville to Portland via Forest Grove over Highway 47 and Hillsboro over Highway No. 8.

Q. What is the character of the service that you are rendering between San Francisco Bay points and Sacramento, on the one hand, and points in Oregon, on the other hand?

A. We operate daily except Sundays and holidays from

22 San Francisco Bay points to Medford and Klamath Falls, and daily service except Sundays and holidays from Sacramento, to Medford. We operate every day from Medford and

Klamath Falls to the San Francisco Bay area, and to Sacramento. We serve all intermediate points between San Francisco, on the one hand, and Medford and Klamath Falls, on the other. We serve all intermediate points north of Davis between Sacramento, on the one hand, and Medford, on the other hand. We operate one truck between Sacramento and Medford, and at least three trucks daily between San Francisco and Medford and Klamath Falls, and as high as six trucks depending upon the volume of traffic.

Q. What type of equipment do you use?

A. We use trucks and trailers.

Q. What is the character of the service that you propose to offer over the routes which you now propose to serve?

A. We are offering a daily service between San Francisco Bay points and Sacramento, on the one hand, and Portland, Oregon, on the other hand, via U. S. Highway 99 north of Medford as far as Junction City, and then via U. S. Highway 99E via Albany and Salem, and 99W via McMinnville and Corvallis. We also propose to serve points north of Portland, including Vancouver, Washougal and Camas. The proposed service will include all intermediate points.

Q. And that is all intermediate points, and those restrictions were made this morning by way of an amendment to the application?

A. Yes.

Mr. HICKSON. I understood your amendment included as far as Vancouver. Do I understand you are now including Camas?

Mr. BEROL. I will state that Camas and Vancouver may both be included in the amendment, and in the restriction which we offered this morning.

Q. Is it your proposal to operate and offer service daily except Sundays and holidays at all points on both Highway 99E and 99W north of Junction City?

A. Yes, it is.

Q. What is the character of the service that you propose for the area north of McMinnville via Forest Grove and Hillsboro?

A. That, too, will be a daily service, except Sundays and holidays.

Q. Do you propose that the points north of McMinnville via Forest Grove and Hillsboro will be served by line-haul equipment or by local truck out of McMinnville and Portland?

A. That will depend upon the character of the traffic we will serve. It will be either by the use of line-haul truck or by local truck from McMinnville and Portland, depending upon what may be the better or convenient operating practice on any particu-

lar day in question. In other words, we will accord such service as the shipping public may require.

24 Q. What is the character of the service that you propose in so far as Vancouver, Camas and Washougal, Washington, are concerned?

A. That will be an on-call service.

Q. What type of service do you propose for the territory described as Route 1-C in your application, being the territory from junction of Highways 98 and 42 through Coquille, Marshfield, Reedsport and then to Drain via Highway 38?

A. We propose a daily service except Sundays and holidays.

Q. What is the service that you propose between Redding, California, and Lakeview, Oregon?

A. That is a daily service, except Sundays and holidays.

Q. Do you also propose to serve Glendale, Mt. Angel and Riddle?

A. Yes.

Q. What type of service do you propose for these off-route points?

A. On-call.

Mr. BROWN. Where are those points located? I don't see that on the map.

Mr. BEROL. It may be that that map does not show the point. I have some maps of Oregon which are more inclusive, which I will distribute for the use of the Board and the parties. Those points are Glendale, Mt. Angel and Riddle.

By Mr. BEROL:

25 Q. Now, Mt. Angel is located, I understand, about six or seven miles northeast of Salem, east of Highway 99E? Is that correct?

Mr. BROWN. It is on the map.

Mr. BEROL. It is on the map which I have distributed for the information of the parties. Riddle is located south of Roseburg and about four miles west of Highway 99. Glendale is south of Riddle, just a few miles west of Highway 99, and is about two-thirds of the distance from Roseburg to Grants Pass.

Mr. BROWN. Are those points included within the scope of your application?

Mr. BEROL. Yes, they are.

By Mr. BEROL:

Q. Now, do you also propose to serve the points laterally two miles on either side of the highway which you propose to serve?

A. Yes, that will be an on-call service available to all points on passable routes located two miles on either side of the highway.

Q. Have you given any consideration as to the type of equipment you will operate if this application is granted?

A. Yes, we are now operating trucks and trailers, and the same type of equipment will continue to be operated but will be supplemented by tractors. The truck and trailer equipment will move to the Oregon border. On the trucks will be freight destined to Southern Oregon points such as Medford, Klamath
26 Falls, Grants Pass and Roseburg. On the trailers will be placed freight destined to points north of Roseburg. The truck and trailer units will be disconnected at the Oregon border, and tractors available there for that purpose will hook onto the trailers, thereby converting them into semi-trailers. The tractors and semi-trailers will then move north as far as Portland, Oregon, and as far as Vancouver, Camas and Washougal, Washington, when that is necessary.

We also have made arrangements that as to traffic moving north of Portland to Seattle and northeast of Portland to Spokane, trailers loaded with that type of freight will be interchanged with carriers operating between Portland and Seattle, and between Portlan and Spokane, so that in that regard we will have through equipment and through service all the way between San Francisco and Seattle and between San Francisco and Spokane.

Exam. KEPHART. Using connecting carriers north and northeast?

The WITNESS. Yes.

By Mr. BEROL:

Q. How do you propose to serve the territory between San Francisco Bay points and Lakeview?

A. Truck and trailer equipment will leave San Francisco, the truck containing on it freight to points north of Redding, the trailer containing freight to Redding in intrastate commerce
27 under authority of the California Railroad Commission. A truck will move through to Lakeview without any necessity of delay in Redding, with the exception of the truck stopping long enough to load such traffic as originates in Sacramento, California, destined to Lakeview.

Q. Let me interrupt you at this point and ask you as to your statement of the truck stopping long enough to load such traffic to points north of Redding; you mean to points north of Redding, to Lakeview, including Lakeview?

A. Yes.

Q. You may proceed.

A. The service to the Coos Bay Area will be performed by the trucks that will serve points north of Medford intermediate to Roseburg. A daily schedule will be available to and from all the points mentioned. The character of the equipment will be substantially as I have described it, but we have a sufficient number

of pieces of equipment, and we propose to use them with such flexibility as may be required in serving shippers' needs and doing it with the greatest economy possible to ourselves.

Q. How many pieces of equipment do you estimate will be required for this service?

A. Sixteen trailers which we now operate as far as Medford and/or Klamath Falls from the Bay area. North of Oregon-California line will use tractors to convert trailers to semi-trailers to meet requirements of Oregon weight restrictions.
28 This will require approximately eight tractors, of which at present time five are now used between State Line and Medford or Klamath Falls.

Q. Is any of the equipment which you are now using and which you propose to use refrigerated?

A. Yes, we are operating refrigerated equipment now, and we propose to continue the use of refrigerated equipment over the territory we seek to serve.

Q. What type of refrigeration do you use?

A. We use entirely mechanical refrigeration.

Q. Have you given any consideration to the time in transit between the various points?

A. Yes. Between San Francisco and Portland: 25 to 28 hours. Between San Francisco and Coos Bay area: 20 hours and less.

Q. How about San Francisco and Lakeview?

A. Between San Francisco and Lakeview: 14 to 16 hours.

Q. What terminal facilities do you maintain at the present time?

A. We operate our own terminal at San Francisco where we maintain our own pick-up and delivery equipment. We also maintain our own terminal and our own pick-up and delivery equipment at Oakland, Sacramento, Red Bluff, Chico, Redding, Weed, and Yreka, California, and Medford and Klamath Falls, Oregon.

Chairman TERRIL. What was your running time to Coos Bay?

The WITNESS. 20 hours.
29 Mr. ROBERTS. What was it for Lakeview?

Mr. BEROL. 14 to 16 hours.

By Mr. BEROL:

Q. Will you proceed?

A. We maintain agency stations at Dunsmuir and Mt. Shasta, California.

Q. If this certificate is granted, is it your expectation that you will require additional terminal facilities in California?

A. Yes; several days ago we received a new certificate of public convenience and necessity from the California Railroad Commission, as a result of which we will immediately establish our own

terminal with our own pick-up and delivery service at Mt. Shasta. It is also our proposal, if this application is granted, to establish our own terminal and pick-up and delivery service at Dunsmuier. With the exception of these two points, we now maintain terminals at every point in California along the route justifying a terminal, and our present terminal facilities together with what we expect to put in at Dunsmuir and Mt. Shasta will be sufficient for all requirements. In Oregon we will establish our own terminals at Lakeview, Grants Pass, Roseburg, Eugene, Salem, Marshfield, and Portland. At other points it will be our purpose to establish agencies and pick-up and delivery service with local carirers and local draymen, and in case none are available we will establish our own terminals. We also will have our own field men
30 ring the territory where we do not have our own terminal facilities, to make sure a proper service is rendered the shipping public.

Q. Have you given any consideration to arrangements with connecting carriers?

A. Yes, we have. We will connect with carriers beyond Portland, honoring all routing requests as either shippers or consignees request.

Exam. KEPHART. What type of agreement do you expect to enter into with these carriers? I mean, for the interchange of equipment?

The WITNESS. Well, how do you mean?

Exam. KEPHART. Are you familiar with the article in the "Transport Topics" about three or four months ago as to the requirements that the Commission might stipulate in all arrangements between connecting carriers involving interchange of equipment?

The WITNESS. No.

Exam. KEPHART. I think they are about to require written per diem contracts where equipment is interchanged.

By Mr. BEROL:

Q. In that connection, at the present time you do have arrangements for interchange of equipment?

A. Yes.

Q. And are they covered by written agreement?

A. Yes.

31 Q. Are they compensated on a mileage basis compensation for the use of equipment?

A. They are.

Q. And in connection with that, if the Committee should prescribe a per diem or other means of compensation, or other regu-

lation for arrangements with connecting carriers, will it be your purpose to comply with such rules or regulations?

A. Yes.

Q. Will you proceed?

A. In this connection, we have made preliminary arrangements with both truck and water carriers.

Q. How long a period of time have you been connecting with Consolidated Freightways at Medford and Klamath Falls, Oregon?

A. We have been connecting with them at Medford, Oregon, for about 11 years, and at Klamath Falls, Oregon, for about six or seven years.

Q. What has been your relationship with Consolidated Freightways during that period of time?

A. We have had a very close relationship not only at these points, but also at other points, for example, at Oakland, Sacramento and other points where we occupy joint terminals. About a year and a half ago Consolidated began to develop an organization known as "Freightways." They held a number of meetings with other carriers, and finally about six or eight months
32 ago perfected an organization of which six or eight carriers were members. Consolidated solicited us to joint their group. The idea was for all carriers in the group to interchange freight only with each other in so far as freight moved to or from a point served by another carrier who was a member of the group. It was also proposed that each carrier member of the group to alter their names so as to contain the name of "Freightways," to solicit all freight under the name of "Freightways," and handle all bills under the name of "Freightways," to cooperate in the matter of schedules and advertising, to have joint solicitation, and not to withdraw from the group except under certain conditions. I gave consideration to the proposal for some time. I had a number of conferences on it with Mr. James of Freightways. We finally determined that we were going to see how the proposition worked out before we would make up our minds whether we would join or not. One of the last conferences I had with Mr. James was lost October or November when he came to my office in San Francisco and stated I had plenty of time to decide if we were going to join Freightways or not. If not, he was going to file for rights to operate through to California.

Q. What happened then?

A. A few weeks later I received a notice that Consolidated had filed an application for service into San Francisco.

Q. What did you do then?

33 A. I gave the matter consideration and determined to file an application seeking extension of our operations into Portland.

Q. What consideration did you give prior to filing your application?

A. We considered the matter from a number of angles. We considered the existing service in the territory. We considered the volume of freight moving which had been built up over a number of years. We considered the interests of the shipping public and determined their interest would be best served, and the shipping public would be given a better service if we could operate into Portland ourselves. Based upon such considerations, we filed the application that is being heard today. We also gave consideration to the possibility of losing our connecting carrier, the Consolidated Freightways, if their application should be granted; in which event, we would be without a connecting carrier. That would result in our losing the benefit of the business we had built up over a period of 11 years, and would go a long way towards destroying our entire service.

Mr. BROWN. Are you handling a considerable amount of traffic between points north of Medford on the one hand and points in California on the other?

The WITNESS. Between 50 and 60 tons a day.

Exam. KEPHART. Tons per day?

34 The WITNESS. That is right.

Mr. BEROL. I might state for the information of the Board that that information will be fully developed at a later time.

By Mr. BEROL:

Q. Have you had prepared under your direction and supervision a statement which has been here identified as Exhibit No. 2 entitled "Statement Showing Balance Sheet of Oregon-Nevada-California Fast Freight, Inc., as of May 31, 1940"?

A. Yes.

Q. And does that statement given reflect the assets and liabilities of your company as of May 31, 1940?

A. Yes.

Q. Have you also had prepared under your direction and supervision a statement showing your operating revenues and operating expenses of the period from July 1, 1939, to May 31, 1940?

A. Yes.

Q. And does that statement correctly reflect the operating revenues and operating expenses of your company from July 1, 1939, to May 31, 1940?

A. Yes.

Q. Have you also prepared under your direction and supervision a statement showing yearly revenues of your company between 1934 and 1939 and the eleven months ending May 31, 1940?

A. Yes.

Q. And that is for your company, and its predecessors, the Oregon-California Fast Freight and the Nevada-California Fast Freight?

35 A. Yes.

Mr. BEROL. I will offer the documents which have been identified as Exhibits 1 to 4, inclusive.

Chairman TERRIL. Are there any objections, gentlemen? They will be received as marked, 1 to 4, inclusive.

(Exhibits 1, 2, 3, and 4, witness Gritsch, received in evidence.)

Exam. KEPHART. Can you give a brief history of the organizations prior to the incorporation of the Oregon-Nevada-California Fast Freight?

Mr. BEROL. I will be glad to go into details.

By Mr. BEROL:

Q. You commenced operations, I believe you indicated, in 1929.

A. Yes; the operation of the Oregon-California Fast Freight.

Q. That was in operation between San Francisco Bay points on the one hand and Medford and Klamath Falls on the other hand?

A. Yes.

Q. You subsequently commenced an operation between San Francisco Bay points and Reno, Nevada?

A. Yes.

Q. That was acquired by purchase?

A. Yes.

Q. When?

A. In 1932.

36 Q. And that was operated by you as the Nevada-California Fast Freight?

A. Yes; it was.

Mr. BROWN. From whom did you acquire it?

The WITNESS. The Nevada-California Transportation Company, owned by Mr. Ginnochio.

By Mr. BEROL.

Q. Now, subsequent to that time, did you apply to this Commission for authority to extend your application from Reno, Nevada, to Elko, Nevada?

A. Yes.

Q. Was that granted by the Interstate Commerce Commission?

A. Yes.

Q. You are operating between those points at the present time?
A. Yes.
Q. And do you also operate intrastate traffic between Reno and Elko, Nevada, under a certificate of public convenience and necessity from the Public Utilities Commission of Nevada?
A. Yes.
Q. Was that service instituted pursuant to a certificate during the year 1937?
A. Yes; it was.
Q. Do you also operate intrastate between points in California?
A. Yes, between San Francisco and the bay area on the one hand and Sacramento on the other hand, and points commencing at Red Bluff——

37 Q. Just a minute. Let us get this straight. You didn't mean to include Sacramento in that, did you? Roughly, is the service which you offer, between San Francisco Bay points on the one hand and Red Bluff to, but not including Dunsmuir, on the other hand?
A. That is correct.
Q. Will your operation be supplemented by operations to the Oregon-California border from above the Bay area and Sacramento, with the exception of several points, under authority recently issued you by the California Railroad Commission?
A. Yes.
Q. Do you also operate between Chico and Red Bluff, California, in both interstate and intrastate traffic?
A. Yes.
Q. Does that description generally cover the nature of the operations?
A. Yes; it does.
Q. Now, your operations between the San Francisco Bay points on the one hand, and Medford and Klamath Falls, Oregon, on the other hand, have they been continuous since 1929?
A. Yes.
Q. And on a daily basis?
A. Yes.
Q. Your operations between Reno, Nevada, and San Francisco Bay points, have they been continuous since 1932?

38 A. Yes.
Q. And on a daily basis?
A. Yes.
Exam. KEPHART. How frequently do you ope e from Reno to Elko?
The WITNESS. A daily service, serving all intermediate points between Reno and Elko.

By Mr. Berol.

Q. Is it true that all the operations which you conduct are daily schedules, regular route operations?

A. Yes, except Sundays and holidays.

Q. Yes, of course. Now, with respect to the present operations, as far as equipment is concerned, leaving north-bound out of the bay area, approximately what time of day does that equipment leave?

A. There are schedules from the San Francisco Bay area all the way from four o'clock in the afternoon until seven-thirty.

Q. And you have anywheres from three to six schedules daily?

A. That is correct.

Q. Has it been your experience in the last year or so that there is always been a minimum of three schedules daily?

A. Yes; it has.

Q. Now, have you given consideration to the proposal that, if this application should be granted, you may, in addition to the evening schedule, also institute a morning schedule out of San Francisco?

39 A. Yes.

Mr. Brown. Morning or forenoon?

By Mr. Berol:

Q. Forenoon?

A. Yes.

Q. Have you also given consideration to the proposition that, if this application is granted, you will institute a morning or forenoon schedule from Portland south-bound?

A. That is correct.

Mr. Berol. That is all. You may take the witness.

Mr. Roberts. We would like to waive cross-examination until later.

Mr. Farrens. Would it be agreeable to ask a few questions now, and then continue later?

Mr. Berol. Just as you like.

Cross-examination by Mr. Farrens:

Q. I want to get it more clearly in my mind, Mr. Gritsch, as to what the purposes or objects of "Freightways" was. Did I understand you to say that the organization contemplated exclusive interchange of freight among its members?

A. Yes.

Q. Would that have involved——

Mr. Berol. May I interrupt, to clarify that a bit?

Mr. [illegible] s. Yes.

Mr. [illegible]t, of course, applied in so far as the particular territory [illegible] member served?

40 Mr. GRITSCH. Yes, that is correct.

Mr. BEROL. It had no application to any territory which was not served by a proposed member of "Freightways"?

The Witness. No.

Mr. FARRENS. I assumed that, Mr. Berol.

By Mr. FARRENS (continuing):

Q. Would that have gone so far as to disregard routing instructions of shippers, if you know?

A. I don't think it would have.

Q. That is, where it was possible to influence the routing instructions, or where routing instructions were not given, it would have been the legal obligation of the members of the "Freightways" association to route the shipments along the routes of the members of the organization?

A. That is correct.

Q. It would have been their duty, under their contract, to turn that business over to a member in the member's territory?

A. Yes.

Q. Or for transportation through to a member's territory, I assume?

A. Yes.

Q. By that, I mean, if I may illustrate, if the Consolidated Freightways had originated freight in Portland, it would have been under obligation to deliver to you at Medford, for transportation through to San Francisco, for goods destined for Los Angeles—that is, that would be through your territory?

41 A. That is correct.

Q. In places where it was indicated, did it involve the compulsory maintenance of a joint terminal?

A. Well, I didn't go into that far enough to find out how compulsory it would be; but that was the idea, yes.

Q. And could you state from your own memory the restrictions which were supposed to be placed upon withdrawals from membership?

A. Ninety days.

Q. Was there any other restriction on it?

A. I couldn't answer that.

Q. Let me ask you this: Was this plant embraced in any bylaws, or were there any bylaws of the organization, or anything of that sort, in writing?

A. Yes.

Exam. KEPHART. Was there any penalty for withdrawal within the ninety days?

The WITNESS. I don't remember if there was or not. I still have a copy of the contract, but I couldn't answer it now.

By Mr. FARRENS:

Q. Mr. Gritsch, do you still have in your files the written by-laws, or other form of organization, which comprised and set forth the obligations of the members of that association?

A. I have that in my files in San Francisco.

Q. You say you have that information in your files in
42 San Francisco?

A. Yes.

Mr. FARRENS. Would counsel have any objection to introducing it in evidence?

Mr. BEROL. May I have some time to consider it? I don't know of any objections now, but I do want to consider it.

Mr. FARRENS. If the Board please, in the light of the opening statement of counsel as to the purpose for putting Mr. Gritsch on the stand, to give the operating testimony, I am not going to ask questions now as to the reasons why this applicant and the Consolidated Freightways, the applicant in the case just previously heard, have not got together and attempted to produce the type of service, or types of service, which each of them are now proposing individually; and I will ask questions of that sort at a later date of this witness; and I would like to have you prepared to state——

Exam. KEPHART. Mr. Gritsch, are you familiar with the Commission's rules regarding safety appliances, and hours of service, and so on?

The WITNESS. Yes.

Exam. KEPHART. It would be your intention to comply with all those rules, in the event this application is granted?

The WITNESS. Yes.

Exam. KEPHART. In the event that this application and the Consolidated application should both fail, would you make
43 your utmost endeavor to cooperate with the connecting line at Medford and other points to speed up the service and avoid the delays that we heard about?

The WITNESS. Naturally, I would, yes.

Chairman TERRIL. Any more questions?

Mr. HEDGES. I have a couple of questions.

Cross-examination by Mr. HEDGES:

Q. Mr. Gritsch, is Elko an important interchange point with some lines running east from that point?

A. Yes.

Q. Is the traffic normally interchanged at Elko, that which is destined to Salt Lake City and points east, out of the bay area in the reverse direction?

A. Yes.

Q. Is there any interchange by interchange of equipment at the present time?

A. By my company?
Q. Yes.
A. No.
Q. In other words, it is a physical interchange of the traffic itself and not an interchange of equipment?
Mr. BEROL. I am wondering if the witness and counsel are talking about the same thing. Did you understand that Mr. Hedges was talking about the interchange arrangements of your company?
44 Mr. BROWN. Between your company and connecting lines.
Do you interchange equipment or do you load and unload the freight?
The WITNESS. We load and unload the freight.

By Mr. HEDGES:

Q. Is the interchange of equipment at Elko as high as the interchange at Medford?
A. There is very little interchange at Elko.
Mr. HEDGES. That is all I have.
Chairman TERRIL. Is that all, gentlemen?

Cross-examination by Mr. SCHAFER:

Q. As I understand, your proposal is to operate principally a daily service between San Francisco and Portland; is that right? That is, to Portland, with Vancouver and Washougal as off-route points?
A. And the intermediate points.
Q. Do you propose to operate a daily service between Klamath Falls and Portland via Medford?
A. No.
Q. Do you propose to operate a daily schedule between Klamath Falls and Portland via Goshen?
A. Yes.
Q. If you are successful in getting such rights, do I understand it correctly, that the public of Klamath Falls and Portland will then have an entirely new service in interstate commerce between these two points?
45 Mr. BROWN. So far as this company is concerned?
Mr. SCHAFER. Yes.
A. Between Portland and Klamath Falls, it will be a new service.

By Mr. SCHAFER:

Q. And on that point, I am referring to the new route.
A. It will be a new service between Portland and Klamath Falls.

Mr. SCHAFER. With that in mind, I would like to add my objection to Mr. Ellis' objection to the broadening of the issues in this case.

Mr. BROWN. Have the issues been broadened? As I understand it, it is nothing but an alternate route for operating economy.

Mr. SCHAFER. The witness has just testified, or just admitted, in answer to my question, that he does not propose to operate by the only other route that there is, and it seems to me the alternate route, which is mentioned, would become the regular route. The witness has so admitted.

Mr. BEROL. Would you let me clear that up?

Mr. SCHAFER. Go ahead.

By Mr. BEROL

Q. In describing your operating authority, I will ask you if you operate between Medford and Klamath Falls?

A. Yes.

Q. Is that a daily operation?

A. Yes.

46 Q. That is the one which was acquired by purchase two years ago?

A. Yes.

Q. Pursuant to the authority of this Commission?

A. Yes.

Q. Do you at the present time transport commodities from Klamath Falls to Medford, that are destined to Portland, Oregon, moving in interstate commerce?

A. No; some intermediate points, we do. I have no through rates between Klamath Falls and Portland via Medford; therefore no traffic moves in that direction.

Q. Under the application pending here, you propose to extend from Medford to Portland?

A. Yes.

Q. If that extension should be granted, would you then operate in the transportation of property between Klamath Falls and Portland?

A. Yes.

Mr. BEROL. I think that clears that up; the witness states there is a proposal to render service here between Klamath Falls and Portland.

Mr. SCHAFER. I know the objection will be taken under advisement, but I would like to point out that he stated that he would not operate a service between Klamath Falls and Portland via Medford, but that he would operate a daily service

47 between Klamath Falls and Portland via the Willamette

Pass Highway. Under those circumstances, I don't think it would be an alternate route, when it is a regularly scheduled operation.

Mr. FARRENS. What you are proposing to substitute for the regular Medford-Portland route is this; you are proposing to cross the Cascade Range between points, or between a point above Chemult, at which the Willamette Highway connects with Highway 97, and Goshen, in lieu of crossing the Cascade Range on the highway which runs between Klamath Falls and Medford?

The WITNESS. That is right.

By Mr. SCHAFER:

Q. What competition do you now have between San Francisco and Medford, with those two points as termini, aside from the competition of through carriers from Seattle to California?

A. The Southern Pacific; Pierce Auto Freight Lines; Pacific Truck Express.

Q. Those are the through operations from points north. You have no competition originating at Medford and operating into the bay territory?

A. Yes; the Pierce Auto Freight operates to San Francisco and the bay area; and the Pacific Truck Express.

Mr. BROWN. The Southern Pacific?

The WITNESS. Yes, the Southern Pacific.

By Mr. SCHAFER:

Q. Those all operate through Portland to San
48 Francisco; isn't that a fact?

Mr. BEROL. It is still competition.

Mr. SCHAFER. Just a minute. That is a foundation question.

By Chairman TERRIL:

Q. Do they pick up traffic at Medford and take it to the bay area?

The WITNESS. Sure

Mr. SCHAFER. That is a foundation question.

By Mr. SCHAFER.

Q. When you related the history of your line and the acquisitions, you failed to mention the Medford-Sacramento Truck Lines. You acquired the Medford-Sacramento Truck Lines, did you not, recently?

A. About a year ago, yes.

Q. And how was that acquired?

A. How was it acquired?

Q. Yes.

A. You mean from whom was it acquired?

Q. Yes.

A. From Frank Gritsch.

Q. And do you have the finance docket number of that case?

Mr. BEROL. I don't have it here. I can furnish it later, if you like.

By Mr. SCHAFER:

Q. How long did Frank Gritsch own it, or how long had he owned it when you acquired it?

A. I think about a year and a half.

49 Q. And you acquired it at the time when you incorporated, isn't that it?

A. That is right; and we incorporated and consolidated the operations.

Q. First Frank Gritsch, your brother, got the Medford-Sacramento Line, and later he sold it to you, and you incorporated, and he took stock for it? Is that corerct?

A. That is correct.

Mr. SCHAFER. I will reserve any further questions to a later date, if the Board please.

Chairman TERRIL. Does that complete the cross-examination of this witness at this time? Is there anything further, Mr. Berol?

Mr. BEROL. Not with this witness at this time.

Chairman TERRIL. We will take a short recess at this time.

(Recess.)

Chairman TERRIL. Let us be in order, gentlemen.

Mr. FARRENS. In the interest of orderly procedure, so there will be no element of surprise, I want to serve notice of a demand now on counsel for all information in the way of writings which are in the possession of counsel and his client, showing the nature of the organization and the objects and purposes of "Freightways." In addition to that, I would like to have all written records which counsel has relating to this falling out of these two connect-

50 ing carriers and the invasion of each other's territories; in addition to that, I would like to have all written records which counsel have, of which his clients have, relating to the proposals for improvements of the joint through service, and any records which would indicate in any way why these two connecting carriers have failed heretofore to give a joint through service into this territory such as they now individually are proposing to give by means of their own independent operations.

Chairman TERRIL. Suppose we go off the record for a moment.

(Discussion outside the record.)

Chairman TERRIL. Let us proceed.

Mr. BEROL. We will attempt in every way, so far as our records are available, to comply with the request of Mr. Farrens.

Mr. BROWN. It seems to me that is a very important part of this case and the preceding case. So far as I am concerned, I would like to have it.

Mr. BEROL. I might say that that is a part of the information I had in mind, although it may not be as complete as Farrens' suggestion, when I stated that I will offer testimony by Mr. Gritsch at a later date concerning operating matters; and I will further state that it is our purpose in San Francisco to make as complete a disclosure as possible of the information requested by Mr. Farrens.

Mr. SCHAFER. And may I state that Mr. James, who has
51 testified, who is an official of "Freightways," will be available to explain anything the Board desires, and we will endeavor to satisfy the Southern Pacific's curiosity fully.

Chairman TERRIL. In view of the shortness of time now, can you have it ready by the 22d?

Mr. SCHAFER. If it is possible to get that testimony here, we will.

Chairman TERRIL. You mean, if you have time?

Mr. SCHAFER. That is it.

Mr. FARRENS. I am anxious to see that this evidence is given at a time when all three members of the Joint Board are going to be present, whether it is in San Francisco, on the 22d, or whenever it would be.

Chairman TERRIL. All three members are not concerned with one of the continued hearings on the 22d.

Mr. FARRENS. All three members are not?

Chairman TERRIL. There is one hearing in which a different joint board hears the matter.

Mr. BROWN. Has there been any requests for consolidation of these cases?

Mr. FARRENS. Would the Joint Board consider such a request for consolidation for the two hearings and have the authority to act upon it?

Mr. HEDGES. There are two different joint boards hearing these cases; one of them involves an entirely different joint
52 board.

Mr. SCHAFER. I would like to point out, further, after we have put on almost all our evidence, it would be difficult to consolidate the two cases. I don't see how it can be done.

Exam. KEPHART. They won't be consolidated.

Mr. BROWN. Mr. Farrens, insofar as your request is concerned, it would have to be denied. The cases could not be consolidated.

Insofar as your request is concerned, that the matter come before all three members of the Joint Board, I assume the same joint board will continue throughout the hearings.

Mr. FARRENS. The Joint Board member from Washington is only interested, of course, insofar as the particular application concerns Camas and Vancouver, Washington. The main part of the operations are those, of course, which concern traffic interchanged between these two carriers at Medford and Klamath Falls. I am particularly anxious that the Joint Board member from California hear that testimony. Therefore, if Mr. Brown is not going to be here on the 22d and 23d, I would prefer to have it introduced at San Francisco.

Mr. BROWN. I possibly will be here.

Chairman TERRIL. I think it will be the understanding that, if this hearing should be continued to the 22d or the 23d, that the testimony may be heard at that time, providing the member from California is present; otherwise, it will be
53 heard in the continued hearing at San Francisco, California.

(Discussion outside the record.)

(Witness excused.)

Mr. ADAMS. I will call Mr. Herron.

L. F. HERRON was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you state your name?
A. L. F. Herron.
Q. You reside at Portland, Oregon?
A. I do.
Q. What is your employment or occupation?
A. Sunset Tire Company.
Q. How long have you held that position?
A. Fifteen years.
Q. What is the business of your company?
A. Selling tires—automobile truck tires and tubes.
Q. In Oregon and Washington?
A. That is correct.

Exam. KEPHART. Where are your headquarters?

The WITNESS. In Portland.

By Mr. ADAMS:

Q. Does your company ship between San Francisco and Portland and points intermediate thereto?
A. We ship quite a little between San Francisco and Portland.
Q. In both directions?
54 A. Mainly from San Francisco to Portland.

Q. But you have some shipments south-bound?
A. Yes.
Q. About what is your monthly tonnage volume of shipments destined to or originating from such points?
A. About 12 tons.
Q. 12 tons a month?
A. Yes.
Q. How do you ship your shipments to or from such points?
A. We have been shipping by truck.
Q. By truck?

By Exam. KEPHART:

Q. Truckload quantities or less than truckload quantities, or both?
A. Both.

By Mr. ADAMS:

Q. Do you know anything about the facilities of the Oregon-Nevada-California Fast Freight?
A. Yes.
Q. Have you ever used their services?
A. Yes.
Q. How have you found those services to be?
A. Satisfactory.
Q. You have had no complaint?
A. No.

By Mr. BROWN:

Q. Between what points have you used them?
A. I guess it would be through as a connecting carrier.

55 By Mr. ADAMS:

Q. It would be the Consolidated Freightways at Medford, or to Medford from Portland, and between Medford and San Francisco via the Oregon-Nevada-California Fast Freight; is that right?
A. I think that is right.

By Mr. BROWN:

Q. Your shipments originate in the San Francisco Bay area?
A. Yes.
Q. And destined to Portland?
A. Yes.

By Mr. ADAMS:

Q. What other motor carirers are available between the points named, that you have used?
A. We have used the Pacific Truck Express.

Q. Did you make any investigation to ascertain if there were other carriers available?

A. I wrote the Interstate Commerce Commission and got a letter back.

Q. And they informed you of the existing carriers?

A. Yes.

Q. You are here supporting the application of the Oregon-Nevada-California Fast Freight?

A. That is right.

Q. Why are you supporting this application, Mr. Herron?

A. Well, I feel that we would probably get the same service that we enjoyed under the Pacific Truck Express, which
56 was a through service, quite fast, and pretty reliable.

Q. Well, do you have any understanding as to the Pacific Truck Express operations at the present time?

Mr. FARRENS. That calls for hearsay evidence, and that is objected to.

By Mr. ADAMS:

Q. Are you using the Pacific Truck Express at the present moment?

A. No. Their solicitor was around and stated that they were discontinuing service, and that they had sold out to the Southern Pacific.

Mr. FARRENS. I move to strike that answer. Counsel will agree with me that the personnel of the Pacific Truck Express was very largely changed on the first day of this month, due to the purchase of the Pacific Truck Express by the Pacific Motor Trucking Company; and in that connection, a new corporation was formed by the former owners of the Pacific Truck Express, which, I understand, took over the lines previously operated by the company but not included in the purchase; and that corporation is called, I believe, the Columbia Truck Express; and, in addition to that, there was an organization which handled some of the newspaper business. Now, if a solicitor previously engaged by the Pacific Truck Express had stated that they were quitting and had sold out to the Southern Pacific Company, that does not mean that the Pacific Truck Express is discontinuing operations south of Portland.

57 Mr. ADAMS. You will probably prove what the facts are, but this witness has stated why he is not using the Pacific Truck Express, from his own view, at the present time.

Mr. FARRENS. I have no objection to his stating why he is not using the Pacific Truck Express, but I do object to any statement with reference to the proof of the fact.

Mr. ADAMS. We are not trying to prove it as a fact; you will prove your own case, undoubtedly.

By Mr. ADAMS:

Q. (Continuing.) Will you proceed and tell why you are supporting the application?

A. We are interested in one thing, and that is fast service out of San Francisco.

Mr. HEDGES. A little louder, please.

The WITNESS. We are interested in fast service out of San Francisco, equal to that which we were enjoying.

By Mr. ADAMS:

Q. From the Pacific Truck Express?

A. Yes, from the Pacific Truck Express.

Q. Have you utilized the other carriers operating in that territory, from time to time, over the years?

A. For small pick-ups and deliveries, yes.

Q. Had you finally settled on the services of the Pacific Truck Express as being, in your opinion, the best available through service?

A. It was, so far as we were concerned; we had no complaint at all.

58 Q. I don't want to lead you, so you go ahead and tie it up with the reasons for supporting this application.

A. I have always found that a carrier more or less operating between two points, or a smaller operation, has been more satisfactory.

Q. Will you expand more on the basis of that statement; tie it up definitely with the matter before the Board here, if you will?

A. You mean, between San Francisco and Portland?

Q. Yes.

A. Well, in all the time that we shipped there, we had practically no trouble with the shipments.

Q. Maybe I can help you out a little bit. Are you looking for a reliable carrier? Are you looking for a reliable carrier that will give you through service?

A. A reliable carrier, and efficiency.

Q. Do you believe that the Oregon-Nevada-California Fast Freight is that carrier?

A. I think they can do that.

Q. You have made a study of the other existing facilities and have concluded that, so far as your company is concerned, it needs the services of this applicant?

A. I wouldn't say that I have made a study, but I have looked into it, and I feel, from the information I have been able to get on the companies, that they would give us the services

59 that we want.

Q. In the way of a through, fast service?

A. Yes.

Q. And you feel that your company's need and convenience and necessity is such that the Interstate Commerce Commission should give the authority to this applicant whereby it might be able to transport your commodities, which you have named?

A. Yes. It would be a great benefit to us, and also, indirectly, to the customers of our company.

Q. You ship tires and tubes, don't you?

A. Yes.

Mr. ADAMS. You may cross examine.

Cross-examination by Mr. ROBERTS:

Q. Mr. Herron, how long have you been in the business which you have related?

A. Since 1926.

Q. 1926. You utilize the services of both truckload and less than truckload lot service?

A. Yes.

Q. And most of it comes from the bay region into Portland?

A. Within the last two years.

Q. And you have utilized a carrier which has been satisfactory in all particulars to your requirements?

A. For the last two years.

Q. Are you still using that carrier?

60 A. I believe not; we were.

Q. When did you discontinue?

A. I wouldn't say that we are not still using it, but I understand they are going out of business.

Q. If that service is satisfactory for your purpose, then there would be no need for an additional carrier in this field; isn't that true?

A. If the services would continue.

Q. If the service continues, and, so far as you know, the service has been satisfactory in the past——

Mr. ADAMS. I think I would be willing, if Mr. Farrens could tell us what is going to happen to the Pacific Truck Express.

Mr. ROBERTS. I am assuming, for the purpose of this cross-examination, that this service is going to continue.

Mr. ADAMS. I wonder if we might not have made a part of the record in this proceeding, as in the Consolidated proceeding, the order of the Interstate Commerce Commission authorizing the purchase of the Pacific Truck Express by the Pacific Motor Truck Company.

Mr. FARRENS. I have no objection.

Exam. KEPHART. Do you have the reference?

Mr. SCHAFER. I have it. It is No. MC–F–763.

Exam. KEPHART. What is the title?

Mr. SCHAFER. "Pacific Motor Trucking Company—Con-
61 trol—Pacific Truck Express."

Mr. ADAMS. I wonder if Mr. Farrens would have any objection to stating what the intention of the Pacific Motor Trucking Company is in regard to that.

Mr. FARRENS. I don't know that I could tell you. I have nothing to do with that case for the Commission, and have not discussed that case with any counsel who participated. I don't believe I have any better information with reference to future prospects of operations of the Pacific Truck Express than many of you have. So far as I know, no resolution has been made to abandon the service.

Mr. BROWN. I think it is a very important part of this case. I wonder if we could have that before the Board before the record is concluded?

Mr. FARRENS. I would like to give you all the information I have, but I am confident in saying that it is going to operate, because there has been no determination on the part of the Southern Pacific to discontinue it. I can't say to you that the Southern Pacific is going to continue that operation indefinitely, time out of mind; they would be at liberty to discontinue the operation, or a part of the operation, at any time.

Mr. ADAMS. It is an argumentative point.

Mr. ROBERTS. It has no bearing on the cross-examination.

Mr. ADAMS. As Mr. Brown stated, it is very important
62 to this case. It is a legal question whether the Pacific Truck Express has authority to continue a through truck service between Portland and San Francisco.

Mr. FERRANS. I want to be entirely frank. I understand that there have been contentions raised by those who were protestants in the acquisition case, to the effect that the order, in effect, prohibits the Southern Pacific's newly acquired Pacific Truck Express from maintaining through operations between Portland and San Francisco. Those contentions, so far as I know, have never been admitted by the Southern Pacific.

Mr. HEDGES. Might I also ask if public convenience and necessity is contingent upon the abandonment of the Pacific Truck Express.

Mr. ADAMS. I think it very obviously is not. We have public witnesses here; and these witnesses are telling the stories as they know them.

Mr. ROBERTS. Why wouldn't the cross-examination be proper?

Mr. ADAMS. You proceed with the cross-examination. I merely wanted this background developed, if it could be done.

By Mr. ROBERTS (continuing):

Q. What time did your shipments arrive through the medium of the carrier which you used before in Portland?

A. In hours of service?

Q. Yes, as to morning, noon, or evening.

63 A. I think we used to get the service here in the morning.

Q. What hour of service was it from San Francisco, or the bay region?

A. What do you mean?

Q. How long did it take to go from San Francisco to Portland?

A. About 30 and some hours.

Q. And in so far as you know, you are utilizing the same services now?

A. Yes. The information I got was from a solicitor, I thought from the Pacific Truck Express, who gave me the impression that I gave you.

Q. Did you say, in so far as you now know, you are using that service?

A. Yes.

Q. Have you used the services of the Oregon-Nevada-California Fast Freight?

Mr. ADAMS. He stated that he had in the past.

Mr. ROBERTS. I am asking him.

Mr. ADAMS. It is repetitious.

Chairman TERRIL. Just go ahead with the answer. What is the answer?

A. Yes.

By Mr. ROBERTS:

Q. Have you used them in connection with your shipments coming from the bay region into Portland?

A. Yes.

64 Q. Have you found that satisfactory?

A. Yes.

Q. In connection with the same character of operations which they now conduct, insofar as you know, those shipments were satisfactory, and the shipments were received in satisfactory shape; is that true?

A. What I am trying to tell you is that, primarily, we got all our shipments in the last two years via the Pacific Truck Express. If that continues, so far as I am concerned, we will continue to ship that way.

Q. What I am trying to get at is that you have used the services of the Oregon-Nevada Fast Freight in connection with shipments from the San Francisco Bay region into Portland—in the past?

A. Yes.

Q. And you have found that service entirely satisfactory?

A. Yes.

Q. Did you ever utilize the Pierce Auto Freight?

A. No, I don't believe we have.

Q. You know of the service which it gives, do you not, between the bay region and Portland?

A. I think it is primarily to Medford. We have shipped over them.

Q. You have not shipped over them?

A. I think so.

65 Q. And did you find their service satisfactory?

A. Yes.

Q. Do you know that they have inaugurated a through service between Portland and the bay region—a through service?

A. No.

Q. Would that meet your requirements, if the same satisfaction was accorded you as the past shipments which were given you by the Pierce Auto Freight?

A. I couldn't say.

Q. You say you have used that service in the past?

A. Yes. Our primary shipments come from San Francisco to Portland; that may be truckloads or just half truckloads.

Q. But you have used Pierce Auto Freight in shipments to Medford?

A. Yes.

Q. You have found that service satisfactory?

A. So far as I know.

Q. If the same kind of service was given you as was in the past, would you use it?

A. Yes.

Q. What was the name of the solicitor or solicitors of the Pacific Truck Express that told you the Pacific Truck Express was going out of business?

A. I think the name of the man was Sibley, or something like that.

66 Q. How did he happen to give you that information? Was he soliciting business from you at the time?

A. I think so.

Q. On behalf of what company was he soliciting business? In other words, he was not really soliciting business?

A. He said that the company was in the process of reorganization, and that after it got straightened out he would be back to see me.

Q. Did he give you any intimation concerning whom he would be representing, when he came to see you?

A. He had the "Pacific Truck Express" on his cards.

Q. You don't know whether he was coming back to solicit you again on behalf of the Pacific Truck Express?

A. He didn't say that he was.

Cross-examination by Mr. HEDGES:

Q. Did he tell you at that time that the Pacific Truck Express was not operating?

A. No, he did not.

Q. You stated in your direct examination that you had made inquiry to the Interstate Commerce Commission as to the service which was available between San Francisco and Portland, and that the Commission had answered you.

A. Yes.

Q. What did they tell you?

A. I got a three-page document telling me.

67 Q. And does that document give a list of the carriers who hold authority between Portland and San Francisco?

A. It gives eight or nine of them. I called up two of them, and they said they specialized in hauling fish.

Q. What about the others? First, who were those?

A. The Pacific Refrigerated and Colletti and Mitchell, I believe.

Exam. KEPHART. Three of them.

The WITNESS. Yes, I believe.

By Mr. HEDGES:

Q. Which one said he specialized in the hauling of fish?

A. Pacific Refrigerated and Colletti.

Q. Did I understand that most of your movement is north-bound out of San Francisco?

A. I should clarify that. My shipping clerk could tell you, and I called him; that was the information that he gave me.

Q. Are you fully familiar with what the shipping clerk found out?

A. That was the report that he gave me.

Q. Did I understand you correctly, that most of the tire shipments are north-bound from San Francisco, and that is what you are interested in at this time?

A. The biggest majority of our shipments come from the bay area.

Q. Is that what you are interested in?

68 A. Yes, for the fast service.

Q. Do you know of any fish movements north-bound out of the bay area into this area?

Mr. BROWN. Fresh fish or canned fish?

Mr. HEDGES. Any kind of fish.

Mr. ADAMS. I don't think that is pertinent.

A. You are asking me?

Mr. HEDGES. Yes.

A. I am not in the fish business; I am in the tire business; and the information, as I say, that I got regarding these lines was gotten by the shipping clerk.

Q. It was gotten by the shipping clerk?

A. Yes.

Mr. HEDGES. Then, I will move that the testimony given by this witness with regard to what the other lines shipped be stricken. I asked him if he knew of his own knowledge, and he said it was of his own knowledge, and now it develops that it was not.

The WITNESS. With regard to this one question; but the rest of it is my own knowledge.

Chairman TERRIL. I think we will allow the testimony to stand.

By Mr. HEDGES:

Q. Mr. Herron, if you received the same service, performed by two carriers jointly, between here and San Francisco that
69 you have received in the past by a single carrier, would that be satisfactory to you?

A. If I had received the same service we have been enjoying, or if I do receive the same service we have been enjoying for the last two years, or the last year and a half, or if the Pacific Truck Express continues to operate, it will be absolutely satisfactory.

Mr. HEDGES. That is all.

Chairman TERRIL. Any more questions of this witness?

Mr. SCHAFER. No.

Redirect examination by Mr. ADAMS:

Q. You testified on both direct and cross about the transfers at Medford. Was that one of the reasons you selected the Pacific Truck Express,——

Mr. FARRENS. It is leading.

Mr. ADAMS. It is redirect.

Mr. FARRENS. That makes no difference.

Mr. ADAMS. If you have an objection, then, make it.

Mr. FARRENS. I will object to counsel leading the witness. The question can be asked in another way.

Chairman TERRIL. Reframe your question, Mr. Adams.

Mr. ADAMS:

Q. In selecting the Pacific Truck Express, did you have in mind any other factors other than the subject of speed?

A. It is our understanding that the shipments came
70 through uninterrupted—came directly through.

Mr. BROWN. What do you mean by "uninterrupted"?

The WITNESS. They were loaded in San Francisco and unloaded here.

Mr. BROWN. Not loaded and unloaded enroute?

The WITNESS. That is right. I mean by that, they were not unloaded enroute and then reloaded onto another truck.

By Mr. ADAMS:

Q. That is the reason you are supporting the application, to get away from that?

A. In shipping to some points, of course, it is unavoidable. In loading and unloading you are apt to lose a tire, and when one tire is lost out of a set, the whole set is useless until you get the remaining tire. If a little dealer has ordered a whole set, he is just held up until he gets the shipment complete. That perhaps means that his competitor may get the sale.

Q. Would you like to have the services available, comparable to that of the Pacific Truck Express, regardless of whether the Pacific Truck Express continues operating or not?

A. Most assuredly.

Q. So you are, regardless of whether the Pacific Truck Express is going to continue to operate as a motor carrier, still supporting this application?

A. That is right.

Mr. ADAMS. That is all.

71 Chairman TERRIL. That is all. You may be excused.

(Witness excused.)

Mr. ADAMS. I will call Miss Jones.

VIRGINIA JONES was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Your name is Virginia Jones?

A. Yes, sir.

Q. You reside in Portland?

A. Yes.

Q. What is your employment or occupation?

A. I am Office Manager and Traffic Manager for the Pacific Pump Company.

Q. That is 526 North Broadway, Portland, Oregon?

A. Yes.

Q. How long have you occupied that position, Miss Jones?

A. About seven years.

Q. Does your company ship between Portland and San Francisco, and points in the San Francisco Bay area, and to points intermediate thereto?

A. Yes.

Q. What commodities?

A. The commodities are pumps, engines, motors.

Q. Can you give me the points from which you make shipments?

A. Portland, San Francisco, Berkeley, and we ship to
72 Marshfield, Roseburg, Grants Pass, Medford, Coquille,—all these Southern Oregon cities.

Q. Would you say, generally, the cities on U. S. Highway 99?

A. Yes.

By Exam. KEPHART:

Q. Do you ship to any points south of San Francisco?

A. No; nothing from our office.

Q. To any points north of San Francisco?

A. No. I am speaking, from our office. Our San Francisco office does, but not the Portland office.

Q. You just ship to your San Francisco headquarters?

A. Yes, our San Francisco headquarters has the Northern California territory.

By Mr. ADAMS:

Q. Do you ship to the Coos Bay area?

A. Yes.

Q. To Lakeview?

A. Yes, and Klamath Falls.

Q. And, generally, the principal cities along the United States Highway 99 between Portland and Medford?

A. Yes.

Q. Insofar as those shipments, in which the transportation is an interstate movement—I mean, where the physical transportation is between two points in Oregon—can you explain to the Board whether those are interstate shipments or not, and, if so, the characteristics of such shipments?

73 A. What do you mean?

Q. This is an interstate application.

A. Well, we receive shipments from San Francisco, from our factory, and we receive them in Portland, and then they are reshipped to cities in Oregon, in Southern Oregon, in Eastern Oregon, and all over.

Q. That would apply to all the points in Oregon that you named?

A. Yes, every one of them.

Q. When a shipment comes in from San Francisco, do you know at that time that the shipment is going to Lakeview, for example; or to some other point in Oregon?

A. Yes; we do some of the time. Naturally, in getting shipments from the factory, in that shipment there are orders for different points, such as points in Southern Oregon, and when we build them up in the shop, then we reship them to the different points.

Q. They are shipped to Portland from San Francisco as one shipment, and then reshipped later?

A. Yes.

Q. They are shipped as one shipment to Portland for the purpose of getting a lower rate?

A. Yes; it is much cheaper to ship from San Francisco to Portland than it is from San Francisco to Coquille.

Q. You mean, comparing a large shipment to a small one?

74 A. Yes.

Q. The rate for the through shipment is much cheaper—for the large one?

A. Yes; by the weight.

Q. That is what I mean. And then the shipment having taken the lower rate to Portland, and then the local rate back to Coquille, makes a lower rate than if it were shipped as a small quantity from San Francisco to Coquille?

A. That is right.

Q. You said something about building them up in the shop.

A. Yes.

Q. In other words, you get the large shipments from San Francisco, and then some of that equipment is built up at Portland, and shipped to other places?

A. Yes. If we have a pump that has to be built up, we do that, and then we send it on again.

Q. About what is your monthly tonnage of shipments destined to or originating at such points?

A. I would say, conservatively, 8 or 9 tons per month.

Q. How do you ship your shipments to or from such points?

A. We ship them by truck and rail.

Q. Of the 8 or 9 tons per month, how much moves by truck and how much moves by rail?

A. I would say about 50%—50-50.

Q. 50%?

75 A. 50% of each.

By Exam. KEPHART:

Q. Is that in less than truck load quantities?

A. Practically all of it.

Q. Practically all?

A. That is right.

By Mr. ADAMS:

Q. Are you familiar with the services of the Oregon-Nevada-California Fast Freight?

A. Yes; we are.

Q. Have you ever used their services?

A. Yes; we have.

Q. Will you explain to what extent you have used them? On what movements?

A. On movements—on rush movements from San Francisco to Portland, and, vice versa, from Portland to San Francisco, and in the bay area.

Q. How do you understand that they participate in the haul at the preseint time?

A. You mean, how do they go?

Q. Yes.

A. Those shipments from Portland are picked up by the Consolidated Freightways, and then transferred at Medford to the Oregon-Nevada-California Fast Freight; and on the shipments going north, they go to Medford, and they are transferred at Medford to the Consolidated.

76 Q. Have you had any complaints of the service of the Oregon-Nevada-California Fast Freight?

A. No, sir.

Q. Has that service been a satisfactory service?

A. Yes.

Q. Prior to coming here, did you make any investigation to determine what motor carrier service was available to you on your shipments?

A. I have known that for a long time.

Q. Take from Portland to the Coos Bay area, for example?

A. What facilities we could use?

Q. Yes.

A. We could use the Pacific Truck Express, and Consolidated. I don't know whether Pierce goes into there.

Q. I think they will agree that they do not.

A. I don't think they do.

Q. All right. Between Portland and Lakeview and Klamath Falls?

A. That is Bend-Portland and Consolidated.

Q. In conjunction with the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. Is that all?

A. That is all I know right now.

Q. And between Portland and Medford?

77 A. Pierce, Consolidated, Pacific Truck Express. I believe that is all I can think of now.

Q. You did pretty well. You are here supporting the application of the Oregon-Nevada-California Fast Freight?

A. Yes, I am.

Q. Why are you supporting the application?

A. Well, we are supporting the application of the Oregon-Nevada-California Fast Freight because our company believes in using a reliable freight carrier.

Q. Did you investigate the applicant to ascertain anything concerning its reliability?

A. Yes. Well, of course, we know they are reliable, from our business with them before, and we know, when we order a shipment, that we receive it.

Q. What other reasons do you have for supporting this application?

A. Well, we also believe that a carrier who is confined to a certain area, or a certain route, is more dependable than one who has an operation throughout the whole Pacific Coast, or the United States. We feel that the one carrier is more familiar with that route and will give us better service.

Q. You mean by "one carrier," you mean a carrier that specializes in serving a particular route?

A. Yes; for instance, from San Francisco to Portland, or from Portland to Bend—one definite area.

78 Q. You are not here complaining about the services of any of the carriers that you have named?

A. No; we have no complaint about any of the carriers.

Q. In so far as the needs of your company are concerned, and bearing in mind the service which you named, do you think that your company's need, convenience, and necessity requires that the Commission grant the application that this applicant seeks, whereby it may serve you in the manner that you have mentioned?

A. Yes; I do.

Q. Do you feel that the present service is adequate?

A. We don't believe the service should be continued to one or two companies; after all, competition is the life of trade.

Q. You spoke of the transfer at Medford between the Oregon-Nevada-California Fast Freight and the Consolidated. Is that type of service satisfactory to you?

A. No; it is not as satisfactory as a through carrier would be.

Q. Why is that?

A. A through carrier would expedite the delivery time; and there is another thing about dealing with one carrier only, and

that is, if anything goes wrong, they won't say, "I will have to refer it to our carrier at Medford." They can't pass the buck.

Q. You feel that the Commission should issue this order?

79 A. Yes; our company feels that . . would be of material benefit for the Commission to grant the authority.

Q. If it was developed that the Pacific Truck Express was abandoning line-haul service by motor carrier between Portland and San Francisco, what effect would that have, in your opinion?

A. Well, it would not have any effect on us. We have used both carriers.

Q. I mean, as to available transportation service between Portland and San Francisco?

A. Well, we feel that one carrier between San Francisco and Portland would probably have the equivalent service of the Pacific Truck Express; is that what you mean?

Q. No. You stated that you used the services of the Pacific Truck Express, and that you had no complaints relative to that service?

A. No.

Q. And you also stated, or, rather, I presume your answer had that in mind, in answer to my question, that if the Pacific Truck Express was still operating, you thought, in view of the existing service, that the services of this applicant, the Oregon-Nevada-California Fast Freight would be required?

A. Yes.

Q. If it develops that the Pacific Truck Express ceases to be a line-haul carrier between Portland and San Francisco,

80 would that, in your opinion, add to public convenience and necessity requiring the operation of the applicant?

A. It is my understanding that the Pacific Motor Transport, under the Southern Pacific, will take over the Pacific Truck Express.

Q. I think that Mr. Farrens will probably object to your giving your understanding, so I will just waive the question. You may cross-examine.

Chairman TERRIL. Under your present set-up, how much of your traffic moves between the bay area points and Portland by truck at the present time, or vice versa?

The WITNESS. About 50%

Chairman TERRIL. In tonnage, what does that amount to, during a given period?

The WITNESS. Well, it varies; it would be, in the summertime, around 10 tons.

Chairman TERRIL. Per month?

The WITNESS. Yes.

Chairman TERRIL. Is that in truck loads or less than truck loads?

The WITNESS. Less than truck loads.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ROBERTS:

Q. As I understand the situation, you transport, or
81 rather distribute from your Portland office to various points in Oregon; is that correct?

A. Yes.

Q. You ship from the manufacturing points in California, into Portland for distribution?

A. Yes.

Q. Sometimes having orders which you fill from the shipments you receive to these points in Oregon?

A. Yes.

Q. And you have utilized the carriers which are in existence at this time to ship into Oregon?

A. Yes.

Q. To points on Highway 99, Medford, Grants Pass, Roseburg, and Eugene?

A. Yes.

Q. And you have found the services which you have received from these carriers entirely satisfactory?

A. Yes; of course, not always.

Q. In the majority of instances, they have been satisfactory?

A. Yes.

Q. They meet your present needs in every particular, do they not?

A. Yes.

Q. They are entirely adequate for your purposes?

A. Yes.

Q. And the services which you have received through
82 the medium of the Oregon-Nevada-California Fast Freight have been entirely satisfactory, likewise, have they not?

A. Yes.

Q. And that service meets your needs, likewise, as it now exists?

A. It meets our needs, yes, but when we need a shipment up here on the second morning delivery, we would take the Pacific Truck Express.

Q. The Pacific Truck Express?

A. Yes.

Q. In other words, if you wanted a more expedited service, you would utilize the Pacific Truck Express?

A. Because we knew, because of the transfer of freight at Medford, the shipment would be delayed, or might be delayed, into Portland.

Q. And you have found that service was entirely adequate for your needs?

A. What service?

Q. The Pacific Truck Express?

A. Yes.

Q. It met all of your needs and requirements?

A. Yes.

Q. Have you utilized the services of the Pierce Auto Freight Lines?

A. To Medford; yes.

83 Q. To Medford?

A. Yes.

Q. Did you not know that it had inaugurated daily service into California?

A. I had never heard of that.

Q. You had never heard of it?

A. No.

Q. But with the knowledge I am giving you at the present time, and that service having been satisfactory, you having utilized it into Southern Oregon points, there would be no reason why it would not serve your purposes into California, would there?

A. Not knowing that Pierce went into California——

Q. I am just telling you now that it does.

Mr. ADAMS. You didn't tell her how long ago.

Mr. ROBERTS. It doesn't matter as to the length of time. It has been operating there for two or three weeks daily—since the 24th of June—daily.

A. As to why I had not utilized them—as I say, I had investigated the carriers to San Francisco, and had never heard of Pierce going to San Francisco.

Q. I am not saying anything about your knowledge, or what you have investigated; I am just saying, with the knowledge that you now have, that Pierce Auto Freight Lines do operate a daily service into California, do you think that that service would be entirely adequate?

84 A. I would feel that the service would be more adequate if a line has been running into California for the last eleven years, and that it would give better service.

Q. That is why you think the Pacific Truck Express would give better service?

A. I don't necessarily mean the Pacific Truck Express. I mean them, yes, the Pacific Truck Express, or the Oregon-Nevada-California Fast Freight.

Q. You knew that the Oregon-Nevada-California Fast Freight has not been operating into Oregon except through the medium of a connecting carrier?

A. Yes, I explained that a minute ago.

Mr. ROBERTS. That is all.

Cross-examination by Mr. FARRENS:

Q. Did I understand from your testimony that you used the Pacific Truck Express in connection with shippers from San Francisco?

A. Only in the event there was an emergency requiring an early delivery. We have used the Pacific Truck Express—both the Pacific Truck Express and the Oregon-Nevada-California Fast Freight in that service.

Q. Well, the Pacific Truck Express was the fastest of the various services between San Francisco and Portland; isn't that true?

A. I believe it was a few hours faster.

85 Q. And that was the reason, when you were in a hurry for shipments, that you always selected the Pacific Truck Express?

A. Yes.

Q. Now, I take it that these hurry-up shipments are not so frequent?

A. They are quite frequent in the summertime and spring; for eight months of the year they are more important than in the other four months.

Q. Did you give the Pacific Truck Express all the emergency shipments?

A. Not all of them. We gave the Consolidated—Oregon-Nevada-California Fast Freight shipments, also; we divided them more or less equally.

Q. Were you equally satisfied with services of both carriers on the emergency shipments?

A. Yes.

Q. Now, were you equally satisfied with the services of both companies with respect to claims responsibility, or in checking up the whereabouts of shipments?

A. I don't know that we ever had any experience with the Pacific Truck Express, or any claims from California.

Q. The services of both companies, then, has been perfect, in that respect?

A. Yes.

Q. The Pacific Truck Express has not lost anything, and

86 the Consolidated-Oregon-Nevada-California Fast Freight service has not lost anything?

A. The only time it has been unsatisfactory has been because of the weather, and that could not be helped.

Q. So that your company has suffered no inconvenience from the fact that there is an interchange of the traffic between the Oregon-Nevada-California Fast Freight and Consolidated at Medford?

A. No.

Q. And you have suffered no loss or damage claims on that account?

A. Not that I recall; that has been over a period of about ten years—seven years.

Q. You consider that as good service?

A. Yes.

Q. And practically as good as that given by the Pacific Truck Express?

A. Yes.

Q. In every particular?

A. Yes.

Q. And you found it was just as easy to find out where a shipment was, if it was shipped by the Consolidated-Oregon-Nevada-California Fast Freight as with the Pacific Truck Express?

A. No; I don't feel that way. If it was the Pacific Truck Express, you could locate it, because you knew it was the
87 Pacific Truck Express alone; if it was the Consolidated, we didn't know whether it was the Oregon-Nevada-California Fast Freight or the Consolidated.

Q. But basing this on your experience, neither company has lost a shipment, and you have no complaint on that score?

A. Not that I recall.

Mr. FARRENS. That is all.

Mr. JONES. No questions.

Redirect examination by Mr. ADAMS:

Q. If the services of the carriers named by Mr. Roberts would meet your needs, then why are you here?

A. Because our company believes that there is no reason why one freight line should have the whole country in which to move. Our company believes in competition.

Q. When you said they "met your needs," did you mean that you were getting by?

Mr. ROBERTS. That is argumentative and leading.

By Mr. ADAMS:

Q. What did you mean, Miss Jones?

A. Will you repeat that?

Q. What did you mean when you said the present service would meet your needs? In other words, why are you here?

Mr. ROBERTS. That is argumentative.

Mr. ADAMS. That is not argumentative.

Chairman TERRIL. I don't think so. The witness may answer.

88 A. I am here because I believe it would be beneficial to our company to have the Oregon-Nevada-California Fast Freight operating between Portland and San Francisco.

By Mr. ADAMS:

Q. Why do you believe it would be beneficial to your company, Miss Jones?

A. I think it will be beneficial to our company because, as I said previously, it would be one operator only, and we feel that the Oregon-Nevada-California Fast Freight is familiar——

Q. Miss Jones, what I am getting at, and what I want you to state to the Board, which I don't think you have stated—and if you will just be quiet a minute and don't get excited about it—you have some definite reason why you came here; and if the services of the other carriers are adequate and meet all your needs and requirements, and you are getting along fine, why, then, there would be no reason why you should support this application. Now, what did you mean when you said that the existing service is meeting your needs?

Mr. ROBERTS. I think the answer to that question is self-evident. The question itself is impertinent. It does not need explanation. It is plain English.

Chairman TERRIL. I think counsel is entitled to an answer to his question, if the witness can answer it.

Mr. ADAMS. If she can't answer it, that is different.

By Mr. ADAMS:

Q. In other words, why are you supporting this application? Why did you leave your office to say that you
89 wanted this service? What are you looking for that you haven't got?

A. I thought I had explained it, that we want a reliable carrier; a carrier that is reliable, one that gives fast service; and we are doing it because of the time element; we are doing it because we believe in competition—we always have. We believe in more than one company being able to give the service—wait a minute. I am getting all mixed up.

Q. Just be calm; don't be excited.

Exam. KEPHART. She doesn't look excited.

The WITNESS. Well, I am.

Mr. ROBERTS. I think it is somebody else that is excited, rather than she.

The WITNESS. As I said before we believe that one carrier, confined to one certain area, does give better service than a large carrier that has on its platform freight from all over eleven states; and that there is less liability of freight becoming lost or misplaced. That has happened many a time in our business.

Q. Have you had that experience pretty often in dealing with existing carriers?

A. No; we have not. We find the service is quite well from all carriers. Naturally, you can't expect to have perfect service all the time; there are bound to be slip-ups.

90 Q. Now, Mr. Farrens questioned you as to the through service of the Pacific Truck Express as contrasted with the service of the Consolidated-Oregon-Nevada-California Fast Freight service. Has the transfer en route been of any significance to you?

A. It did mean about a four or five hour delay whenever there was a transfer.

Q. Was that important?

A. It was important; when we required equipment to be there in the morning, and having to wait all day and receiving it at night—that is important.

Q. What motor carriers have solicited you for business between the points that you mentioned in your direct testimony?

A. Do you mean the points in Southern Oregon?

Q. Yes, and the points in California.

A. Well, frankly, I don't believe any of them have solicited our business. I receive most of the calls, and I don't recall of anyone soliciting business to California.

Q. Have you anything further that you wish to add, which I may not have covered?

A. No, I don't believe so.

Mr. ADAMS. That is all.

Re-cross-examination by Mr. FARRENS:

91 Q. Just wait a minute, please, Miss Jones. I have a right to lead you, because this is cross examination. Isn't it a fact that you have two reasons for being here: One is that your company is very friendly toward the Oregon-Nevada-California Fast Freight and appreciates the service they have been giving in the past—that is Item No. 1; and the other is that of the two carriers making application for the right to extend their services in such a fashion as to furnish a through service between San Francisco and Portland, you would prefer the

Oregon-Nevada-California Fast Freight, with its smaller and more compact system as compared with the octopus system of the Consolidated Freightways?

A. Yes; definitely.

Mr. FARRENS. That is all.

Chairman TERRIL. I believe that is all. You may be excused. Thank you, Miss Jones.

(Witness excused.)

Mr. ADAMS. Mr. McCabe.

IVAN L. MCCABE was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Your name is Ivan L. McCabe?

A. Yes, sir.

Q. You reside in Portland, Oregon?

A. Yes, sir.

Q. What is your employment or occupation?

A. I am the branch manager of Weyenberg Shoe Manufacturing Company.

92 Q. Does that company ship between Portland, Oregon, and points in San Francisco Bay area? I mean, between San Francisco, California, and Portland, Oregon, and points intermediate thereto?

A. Yes.

Q. Could you name those points?

A. Generally speaking, we ship into practically all the principal points on Highway 99, both east and west, between Portland and Sacramento, and also between Portland and what is called the Bay District; and also along the Coast route.

Q. You also ship to the Coos Bay area?

A. Yes; and towns south.

Q. You ship to Klamath Falls and Lakeview?

A. Yes; we do.

Q. You ship boots and shoes?

A. Yes.

Q. And all these shipments originate at Portland? Do all of your shipments originate in Portland?

A. Yes. Do you mean our entire shipping originates here?

Q. I mean so far as you are concerned, they originate at Portland; is that right?

A. That is correct.

Q. From where——

A. You mean, so far as shipments between Portland and San Francisco are concerned?

Q. Yes.

93 A. That is correct.

Q. From where do they come into Portland?

A. They come from Milwaukee, Wisconsin.

Q. By rail from Milwaukee, Wisconsin, to Portland?

A. Yes.

Q. And you ship them from here to the points named?

A. Yes.

Q. About what is the monthly tonnage volume to these points?

A. It varies in the different seasons; it would average between three and four tons a month.

Q. How do you ship your shipments to and from such points?

A. We ship both by truck and rail.

Exam. KEPHART. Truck loads or less than truck load lots?

The WITNESS. It is less than truck load lots.

By Mr. ADAMS:

Q. Of the between three and four tons a month, how much would be shipped by rail and how much by truck?

A. I would say about one-third by rail, and about two-thirds by truck.

Q. Do you know anything about the facilities and services of the Oregon-Nevada-California Fast Freight?

A. Yes. We have had experience with them.

Q. Have you used their services?

A. Yes; we have, to a considerable extent.

Q. And has that been particularly to points in Northern California?

94 A. Yes.

Q. How have you found their services?

A. We have found their services, averagely satisfactory.

Q. When you say "averagely satisfactory," what do you mean? What dissatisfaction has there been?

A. It has been principally the time element, delivery, and whether it is one line or the other that is responsible, I don't know.

Q. And has that been caused by the transfer at Medford?

A. Yes.

Q. What carriers have you used in connection with those shipments?

A. We have used principally the Consolidated Freightways with the Oregon-Nevada-California connection; we have also used the Southern Pacific Lines, with the truck connections, and the Pacific Truck Express. Those are the principal carriers that we have used.

Q. That is on the movements into Northern California points?

A. Yes.

Q. Into Oregon, what truck lines have you used?

A. I think we have used all the principal truck lines.

Q. I mean, in the Coos Bay area and to Klamath Falls and Lakeview, and points south of Eugene.

A. Principally the Consolidated Freightways and the Pacific Truck Express.

95 Q. Now, have any other carriers, other than those you have named, solicited your business here?

A. No, they have not.

Q. And when you say you have largely given your business to the Pacific Truck Express, the Consolidated-Oregon-Nevada-California Fast Freight, and the Southern Pacific, the others have not solicited you?

A. No.

Q. Do you have any complaint as to the carriers you have named?

A. No particular complaint, no.

Q. To distinguish between the rail movements and the truck movements, why do you use the truck?

A. We use the truck, from the time element. Oftentimes we find the truck shipments will come in faster than the rail shipments, and also from the standpoint of cost, that the truck rates oftentimes into California will be less than the rail rates to the same points.

Q. Have you made any investigation to determine, prior to this hearing, what motor carrier service is available to you on your shipments?

A. I know there is several services going into that territory, but it is my understanding that it is specialty services, and not regular, and would not be dependable and suit our needs.

Q. You are here supporting the application of the Ore-

96 gon-Nevada-Fast Freight?

A. That is right.

Q. Rather, the Oregon-Nevada-California Fast Freight?

A. Correct.

Q. Can you tell the Board and the Examiner why you are asking for authority to be granted to the applicant?

A. We believe that if the Oregon-Nevada-California Truck Line operates directly from Portland into Northern California, that our shipments will be delivered the next day after shipment out of Portland, instead of the second day as it is now on account of the transfer time at Medford; and we would like to see a reliable carrier, that is established in the district, that has their own warehouse and distribution point, so that it will be handled straight through, because we know it will be handled better that way.

Q. Do you feel that your company has a definite need for the services of the applicant into the territory and between the points you have named?

A. Very definitely; yes.

Q. And is that based upon any investigation which you have made as to the other existing facilities?

A. Yes. And it is also from the standpoint of competition. Our competition—if you want to go into that point—our competition is from the San Francisco Bay area, and, then, again, if they can ship into the territory overnight, as they
97 can, we would like to be able to match them from Portland.

Q. Have you had any difficulty in getting the prompt service that you require in your business out of Portland into those points in Northern California?

A. We have never had what we call a satisfactory delivery into Northern California points.

Q. You believe that the applicant will give you that service?

A. I believe they will.

Q. And do you know, from your previous experience, that the applicant has terminal facilities at practically all the California terminal points?

A. Yes.

Q. You have satisfied yourself in connection with that before you came here?

A. Yes.

Q. Do you know whether any of the other carriers have such facilities?

A. I don't know.

Q. If they have, you don't know?

A. No.

Q. Would you like to see the Commission issue the authority that the applicant requests?

A. Yes, I would.

Q. So that they could handle your shipments between the points which you name?

98 A. That is correct.

Mr. ADAMS. You may cross-examine.

Mr. HEDGES. Before the witness is cross examined, I would like to ask counsel if he is contending that this company's shipments from Portland to Southern Oregon are interstate.

Mr. ADAMS. I think we covered that by Mr. McCabe's testimony, in which he said that those shipments came in from Milwaukee, Wisconsin, to Portland, and then they were reshipped. That is what I understood.

Mr. ELLIS. You don't contend that makes them interstate?

By Mr. ADAMS:

Q. When those shipments come into Portland, do you know that they are going out to, say, Bend or Marshfield?

A. On a part of the shipments, we know the specific destinations.

Q. And they come in connection with a large number of other shipments, in large lots, and they are consigned to the destination to which they are intended to be consigned, from Milwaukee?

A. They are, generally.

Mr. HEDGES. Are the packages marked here or at the factory?

The WITNESS. At the factory.

By Mr. BROWN:

Q. How are they marked?

A. Oftentimes the heel plates in the shoe carry the mer-
99 chant's stamp. They are specially made to order.

Mr. BROWN. How are the cases marked?

The WITNESS. They are marked in Milwaukee with the merchant's name, and also the point of destination, and also case numbers assigned to the goods.

Mr. BROWN. Do the goods go into your warehouse when received in Portland?

The WITNESS. Yes.

Mr. BROWN. How long do they stay there?

The WITNESS. It comes in in the morning, and it goes out in the evening, as a general rule.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ROBERTS:

Q. How long have you been in this particular line of business, Mr. McCabe?

A. Nineteen years.

Q. As I understand it, you are familiar with the truck facilities which are accorded to people desiring those facilities in Oregon and Northern California?

A. I believe so; yes.

Q. Have you ever utilized the facilities of the Pierce Auto Freight Lines?

A. I believe there are shipments that have gone out over the Pierce Auto Freight.

Q. You knew that they were in operation, and have been
100 for some time in Oregon?

A. Yes.

Q. You have utilized them for interstate shipments in Oregon?

A. For shipments going to Oregon.

Q. As I understand your testimony, all the shipments are interstate?

A. I didn't say that.

Mr. ADAMS. He didn't say that?

The WITNESS. Not all.

By Mr. ROBERTS:

Q. How many of those shipments are interstate? How large a percentage?

A. I couldn't answer that.

Q. Do you know that there is any large quantity interstate?

A. I couldn't answer that; I have not checked on that point.

Q. But there are some?

A. Yes.

Q. And you have used the facilities of the Pierce Auto Freight Lines for those shipments?

A. I couldn't answer that question fully.

Q. You are familiar with the service afforded by that line?

A. I know of the Pierce Auto Freight Lines, I know they have operations into the State of Oregon.

Q. Do you know whether or not those operations are satisfactory?

A. I can't answer that question.

101 Q. Now, you have utilized the Pacific Truck Express, as I understand it?

A. That is correct.

Q. You have found that its operations are entirely satisfactory for your needs and requirements?

A. Yes.

Q. They have met your needs, in all particulars?

A. No.

Q. In what particulars did they not?

A. They didn't give any service into Northern California.

Q. They do, insofar as Oregon is concerned?

A. In Oregon, they were satisfactory.

Q. As I understand it, you have used the applicant for services into Northern California for some time?

A. Very extensively.

Q. Have you found their service satisfactory?

A. Except as to the time element.

Q. Excepting the time element?

A. Yes, it is the time element.

Q. Do you know whether the next morning delivery is given into that territory, into Northern California, by the applicant?

A. I didn't say it was.

Q. I say, did you know it was given now?

A. No.

Q. Did you know that the Pierce Auto Freight Lines
102 give that delivery into those points—next day deliverv?

A. We have not been solicited by the Pierce Auto Freight Lines.

Q. You know they do accord a daily service into Northern California? You know that they do that at the present time?

A. I have heard that statement made here.

Q. You say that the reason that this service at the present time is unsatisfactory is because of the delay at Medford. Is that what I understood you to say?

A. Yes.

Q. And that is the only reason you are not entirely satisfied with it?

A. That is the principal reason.

Q. Are there any other reasons why they are not satisfactory?

A. No; I can't think of any off-hand.

Q. In other words, except as to the delay. you are entirely satisfied with the service which is now afforded you?

A. It is the time element.

Q. If from an operating standpoint that time element could be eliminated between the two connecting carriers, would that be entirely satisfactory?

A. A service that could speed up the delivery would be satisfactory; yes. I cannot answer the question as to the interchange at all.

Q. Do you know anything about the interchange?

103 A. I know they do, but I don't know the details of it nor the time it takes.

Q. But so far as your business is concerned, if this delay was obviated, or a great proportion of it was obviated, so that you could make your shipments into Northern California the next day, for delivery the next day, it would be satisfactory?

A. That would be satisfactory if we could get deliveries in there the next day.

Q. You wouldn't care whether it was obtained through the medium of this applicant securing permission from the Interstate Commerce Commission or through some arrangement between this carrier and its connecting carrier?

A. I think you are involving me, trying to get me to make some statement.

Q. No, I am not trying to get you to say anything.

Mr. ADAMS. That is a question for the Board.

By Mr. BROWN:

Q. Would you be satisfied with the speeding up of the existing service at the present time, if a reliable carrier performed that service?

A. If a reliable carrier performed the service.

By Mr. ROBERTS:

Q. With the present situation, with two carriers, the Consolidated Freightways and the Oregon-Nevada-California Fast Freight performing the interchange, if there was no delay?

104 A. If there was no delay, and we got a reliable service.

By Mr. BROWN:

Q. If the interchange point was eliminated, would that suit your requirement?

A. Yes; that is our principal complaint.

By Mr. ROBERTS:

Q. If it were a fact at the present time—which will developed in the course of the hearing—that its truck comes to Medford in the morning after delivery is made in Portland the evening before, and shipment is made into California in the evening, and delivery is made in Northern California the next morning, would that meet your requirements?

A. That is what we are trying to cash in on.

Q. If that were done, it would be satisfactory?

A. It would be satisfactory; yes.

Mr. ROBERTS. That is all.

Cross-examination by Mr. FARRENS:

Q. While everybody is advertising their service, do you know of the Southern Pacific Company's overnight service to Klamath Falls and Medford?

A. Yes. I am sorry I didn't mention it.

Q. It has been very satisfactory?

A. Yes, it has been very satisfactory.

Cross-examination by Mr. HOLBROOK:

Q. I believe you stated you used the Consolidated?

105 A. Yes.

Q. You found their services satisfactory?

A. Yes.

Q. Were you aware of the fact that for the last three days that application has been heard, for the extension of their lines into California?

A. Yes.

Q. And that would provide practically the same service as is now involved before the Commission?

A. I don't know the details of it.

Q. If they did provide practically the same service as applied for by this application, would you be willing to use that service?

A. I think we would prefer the Oregon-Nevada-California over that line, on account of it being established there; and I think they would give us better service in that territory than a new application.

Q. If satisfactory arrangements were made as to the delivery of the traffic?

A. I don't know what your arrangements might be as to the delivery of the traffic; I couldn't answer that.

Q. If the Consolidated provided the same service, would that be satisfactory to you?

A. I presume we would give Consolidated some business into the territory.

106 Mr. HOLBROOK. That is all.

Mr. ADAMS. That is all.

(Witness excused.)

Chairman TERRIL. We will adjourn until two o'clock this afternoon.

(At 12:15 o'clock p. m., hearing adjourned until 2:00 o'clock p. m. of the same day.)

AFTERNOON SESSION 2:00 P. M.

Chairman TERRIL. We will be in order, gentlemen. Are you ready, Mr. Adams?

Mr. ADAMS. Yes.

Chairman TERRIL. Just a moment. I believe Mr. Mitchell wants to enter his oral appearance.

Mr. MITCHELL. I want to make my own appearance.

Chairman TERRIL. What is your name?

Mr. MITCHELL. O. J. Mitchell, doing business as Mitchell Bros. Truck Line.

Chairman TERRIL. Who are you appearing for?

Mr. MITCHELL. I am appearing for myself.

Chairman TERRIL. You are a member of the firm?

Mr. MITCHELL. Yes.

Exam. KEPHART. You are appearing in your own behalf?

Mr. MITCHELL. Yes. I am the firm.

Chairman TERRIL. All right, Mr. Adams.

Mr. ADAMS. I will call Mr. Wilson.

107 DAVID WILSON was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you state your name?

A. David Wilson.

Q. You reside in Portland, Oregon?

A. I do.

Q. Who is your employer?

A. I am the President of the Fihl Transfer and Storage Company, Portland, Oregon.

Q. Does that company ship between Portland and San Francisco, and points intermediate thereto?

A. Yes, sir.

Q. What commodities generally?

A. I would say commodities generally.

Q. What is the volume of the commodities, approximately, per month?

A. We run in the neighborhood of 10,000 pounds a month out of here, out of our warehouse, to the accounts that we serve.

By Exam. KEPHART:

Q. Less than truck load lots?

A. Yes, altogether.

By Mr. ADAMS:

Q. Do you ship in interstate commerce between Portland and the Coos Bay area?

A. We do.

Q. Do you ship between Portland and Medford, Oregon,
108 in interstate commerce?

A. We do.

Q. Do you ship between Portland and the Coos Bay area?

A. I think I just answered that. We do.

Q. Do you ship between Portland and Klamath Falls in interstate commerce?

A. We do.

Q. What commodities do you ship between the last three mentioned destinations and origin points? When you ship in interstate commerce between the Oregon intrastate points, what is the movement that you designate as interstate movements? What do you mean by designating them as interstate shipments?

A. Pool car shipments that are broken down in Portland.

Q. Those goods arrive by rail in pool car shipments?

A. By rail and boat.

Q. And they are broken down in Portland and sent to those destinations?

A. Yes.

Q. When these pool car shipments arrive, do you know when they arrive where they are destined to?

A. Yes.

By Exam. KEPHART:

Q. From what points do the cars come?

A. All over the United States.

By Mr. ADAMS:

109 Q. How long after the cars arrive in Portland do the shipments move beyond?

A. The same day.

Q. Do you control the routing of those shipments?

A. No.

Q. Will you explain the circumstances to the Joint Board, how you operate, and how you handle those shipments?

A. I am not a shipper: I don't take the position that I am a shipper, but I act as an agent for the shipper. In other words, the shippers outline the points, and, in some instances, specific routings; and, in other instances, I am authorized to pick reliable carriers to destinations.

By Exam. KEPHART:

Q. Do you re-bill at Portland for these Oregon points?

A. I would say, in the majority of instances.

Q. Whose name is shown as consignor?

A. It would be on our bill of lading, but the name of the company would appear for the account of the original consignor.

Q. In some other place?

A. For some company in the East: for their account. We usually have our name on the bill of lading.

Q. On some of the shipments that move between Portland and the Coos Bay area, which you have described, what is the approximate volume that you would average?

A. Seasonal?

Q. What is your average?

110 A. I would say around 3,000 or 4,000 pounds.

Q. Per month?

A. Yes.

Q. You also ship to points intermediate between Portland and the Coos Bay area, don't you?

A. Yes.

Q. You ship between Portland and Medford, and with shipments to the intermediate points, and the principal cities?

A. Yes.

Q. What is the volume per month, approximately, on that route?

A. 3,000 or 4,000 pounds per month.

Q. On the Klamath Falls route, do you likewise ship to the intermediate points?

A. It depends on the——

Q. If it came down to Eugene, and down through the Willamette Pass cut-off, and then to Klamath Falls?

A. Then you would have Oak Ridge as an intermediate point. I don't know of any other instance where there is anything intermediate between those points.

Q. So far as between Portland and Lakeview is concerned, there would be no intermediate point; it would just be from Portland to Klamath Falls, and Lakeview?

A. Yes.

Q. Approximately, what is your volume to Klamath Falls and Lakeview?

111 A. About 2,000 pounds.

Q. Per month?

A. Per month.

Q. How do you handle the shipments that move, as a physical matter intrastate, within the State of Oregon? Do they move by truck or rail?

A. We ship by practically every mode of transportation; the majority of our movements are by truck.

Q. On your shipments between San Francisco and Portland, do you ship both ways?

A. Shipments coming to our warehouse from California—from San Francisco—we ship to San Francisco from our warehouse.

Q. Do you know anything about the facilities and services of the Oregon-Nevada-California Fast Freight?

A. I do.

Q. Have you ever used their service?

A. I have.

Q. On what movement would that be?

A. A shipment between here and San Francisco, and the reverse?

Q. Yes. What part of that service do they perform?

A. The connecting carrier with Consolidated Freightways from Medford to San Francisco.

Q. How have you found the service of the Oregon-Nevada-California Fast Freight to be?

112 A. All right.

Q. Good or bad?

A. They are very good; it is a reliable outfit.

Q. Have you ever had any complaints to make of their service?

A. The only complaint that I had on the service was the matter of the delay of going into Frisco.

Q. Was that due to any particular factor?

A. The lay-over in Medford; we had to make a boat.

Q. What other carriers are available to you between the points named?

A. Pierce, Pacific Truck, Consolidated—I believe that covers it.

Q. You are speaking of the California movement now?

A. Yes.

Q. Any others?

A. There is the Bend-Portland.

Q. The Bend-Portland is between what points?

A. Portland and Klamath Falls.

Q. Take the Coos Bay area.

A. The Consolidated, Pacific Truck connecting——

Q. Any others?

A. I think Pierce has a connecting line in there.

Q. Any others?

A. Let's see——

Q. They connect in the vicinity of Roseburg, and go across?

113 A. That is right.

Q. What carriers have you used?

A. I have used the ones you have named, or that I just named.

Q. What about Mitchell?

A. I have used the Cascade, too, operating south into Los Angeles; I have used them there.

Q. Have you ever used them on any San Francisco traffic?

A. I have not.

Q. Could you state why, if you know?

A. I don't believe that they operate directly into San Francisco, so we have not shipped by their lines; I think they transfer at Stockton and Sacramento; some place in there.

Q. You are here supporting the application of the Oregon-Nevada-California Fast Freight?

A. I am.

Q. Will you explain to the Examiner and the Board why you are here supporting the application?

A. I believe that transportation should be handled by the individual operating unit. In other words, an outfit operating between Portland and any point should be supported, if they are reliable, have sufficient equipment, and the tonnage allows.

Q. Do you figure, on a movement between the points that you have mentioned, that the present service is adequate for the tonnage that is available?

114 A. I don't.

Q. Is there any other reason that you are supporting this application?

A. Merely that I think there is a field here that should be developed, and it is not developed at the present time; if there were better motor transportation between here and California, it would be a big help.

Q. You feel that the existing service is not adequate?

A. Not at the present time; I don't believe so.

Q. Has that been your experience in connection with your shipments?

A. Yes; that has been my experience.

Q. And in connection with movements between Portland and the Coos Bay points, what has been your experience?

A. I think that field down there could be developed, and should be developed.

Q. As far as motor transportation is concerned?

A. Yes; it should have better motor transportation.

Q. Is the situation the same between Portland and Klamath Falls to Lakeview?

A. Decidedly so.

Q. Did you investigate the financial status of the applicant before you came here to testify?

A. I have.

Q. Was that a factor in your determination to support this application?

115 A. As to their reliability and ability to serve; yes.

Q. So far as your company's convenience and necessity is concerned, do you think the same is such as to require the Commission to issue the authority that the applicant requests?

A. Yes.

Q. And that is on the basis of the reasons that you have given?

A. That is correct.

Q. Have you any other reasons?

A. No other reasons.

Mr. ADAMS. You may cross-examine.

By Chairman TRAIL:

Q. All these shipments that go by motor out of Portland, on what percentage do you control the routing?

A. I wouldn't say that we actually control the routing on any shipments. We are held responsible to our principals for the shipments to go by reliable concerns; we don't deal with gyppos, but we deal with companies that give us a fast settlement of claims and damages, and make delivery at destination in the most expeditious manner.

By Mr. BROWN:

Q. In some cases you have the right to select the companies?

A. Yes.

Chairman TERRIL. That is what I am interested in.

By Mr. BROWN:

Q. On what proportion of your movements do you
116 control the routing, or do you select the carriers?

A. I would say over 50%.

Q. Of the entire movement?

A. Yes.

By Mr. ADAMS:

Q. Is that true, that, in all cases, you may designate the route, except in cases where the designation has been made by the consignor?

A. Yes. Although we do have routing orders, we do have specific instructions from the shipper to use certain lines quite often. In those cases we use those lines.

Q. That is in 50% of the cases?

A. Yes; about that.

Q. And in the other 50% you use your own discretion?

A. That is correct.

Mr. ADAMS. That is all.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ROBERTS:

Q. As I understand the situation, you warehouse general commodities in Portland, which are shipped to various parts of the country—shipped from various parts of the country, and then you distribute them to the various parts of Oregon and California? Is that correct?

A. You are speaking of warehousing?

Q. Yes.

A. Yes; we warehouse commodities generally, and do
117 fill orders and ship to various parts of the state.

Q. Approximately 50% of those general commodities have orders as to what particular carrier is to be used, and in the rest of the instances you select the carrier; is that the situation, approximately?

A. Yes; I would say that is approximately correct.

Q. Of course, you are well acquainted with the carrier facilities that are afforded at the present time between Portland and San Francisco, and the Bay region, and intermediate points?

A. Yes.

Q. As I understand it, you have used practically all of them?

A. Yes; I have used practically all of them.

Q. And the services which you have received from the Oregon-Nevada-California Fast Freight heretofore have been entirely satisfactory, except as to the delay?

A. In that one instance that I recall.

Q. There is only one instance which you recall?

A. Yes.

Q. Where the delay has been anything of importance to you?

A. On that type of work, I ceased the use of it—I didn't recommend it any more.

Q. The particular facility for that particular type of transportation?

A. That is right.

Q. But, generally, for the purposes for which you would
118 need a common carrier, for the commodities which you distribute, or which you forward or which you ship, the delay has no particular bearing upon it?

A. Yes; I would say that delay does have a bearing upon it.

Q. To cause you any inconvenience?

A. Well, criticism from the customer.

Q. Well, is it a type of commodity which would be injured or damaged by any delay?

A. Definitely so. I recall one other instance where we made a shipment by the Cascade, in which the delay caused damage to some dyestuff that had to be in Los Angeles at a certain time. It was delayed, and we received a criticism from our customer for using that type of service.

Q. That is just merely an isolated instance?

A. It comes up at various times; I don't know when it is coming.

Q. But so far as the service originating on the Oregon-Nevada-California Fast Freight Line and its connecting carrier, the Consolidated, or some other carrier, you have found no occasion for any particular amount of criticism?

A. No. I have used other services besides those, too.

Q. You have used other services besides those, but I am talking about their service now. There has been no occasion for criticism?

A. Only that the customer complained in this instance.

119 Q. And the delay which you spoke of is the delay which was occasioned at Medford?

A. That is it.

Q. Is there any other feeling of criticism on the part of your customers, except that particular delay? Has there been any other criticism?

A. I don't know of any other.

Q. In other words, if that delay could be eradicated between the two carriers, then there would be no criticism insofar as your customers are concerned, as to that operation?

A. If they can guarantee the service, and there is sufficient equipment on the road, I can see no reason why the present set-up could not work out to a certain degree. But I still say that the service available now is not sufficient.

Q. Do you have any idea of the total tonnage moving between the two respective areas? Do you have any idea what it might be?

A. I imagine, north-bound by truck, it runs in excess of 100 tons a day.

Q. Is it your idea that all these various competing carriers could properly exist, in case this application was granted and the application of the Consolidated Freightways?

A. There is only one thing I know of, and that is through rates into San Francisco at the present time, which have been granted.

120 Q. Through rights, you mean?

A. Yes; through rights.

Q. And what is that?

A. That one established, as I understand it,—I don't know whether it is established, but I understand Mr. Pierce received some rights.

Q. Has that service been satisfactory?

A. I didn't know about it until I sat here today.

Q. Insofar as your experience with the Pierce operation in Oregon is concerned, that service has been satisfactory?

A. Yes; so far as he has been in Oregon.

Q. And if the same type of service were given into California, that would be entirely satisfactory? Wouldn't that be entirely satisfactory?

A. As to his ability?

Q. In other words, his type and character of service, as demonstrated by the shipments which he has handled for you in Oregon intrastate, that service was such as to cause you to believe that his operation in California, if it were similar, would be satisfactory; entirely satisfactory?

A. Yes; but I don't use him exclusively in that service here, because I can't say that I would ship exclusively to California.

Q. What you mean is that you do not use him exclusively here?

A. Yes.

Q. And that you would not use him exclusively to Cali-

121 fornia, is that it?

A. Yes. I don't think it is a good practice to have one exclusive line to operate from here to California.

Q. You know the Pacific Truck Express, do you not? Do you know of that concern?

A. Yes.

Q. You have used them?

A. Yes.

Q. Was that service satisfactory?

A. They were satisfactory.

Q. You know its operation?

A. I did know something about it. I have shipped by them.

Q. You know it is still in operation?

A. No; I do not. I have reason to believe that it is going to discontinue; that it is not going to be in operation.

Q. You mean, by reason of the control by some other facility, that truck operation will be entirely eliminated?

A. I can't conceive of the Pacific Truck Express running in competition with the Southern Pacific Railway, when it is owned by the Southern Pacific Railway. I can't conceive it.

Q. Insofar as you are concerned, and your customers and clients are concerned,——

A. (Interposing.) As I say, I can't conceive of it operating in competition with the Southern Pacific.

Q. All right, we will pass that. Now, so far as you are
122 concerned and your clients are concerned, then, if this operation could be speeded up between the two connecting carriers at Medford, that service, together with the service afforded by the Pierce Auto Freight Lines, which you have mentioned, would be adequate?

A. No; I don't think that is adequate service. I think there is more tonnage going south-bound from Portland that could move by motor transportation than has ever been thought of.

Q. Would you like to let down the bars, provided it was a reliable carrier, and allow them all to operate, who ask for permission to do so?

A. No. But it should be more than one line operating into San Francisco, into the Bay area.

Q. Have you any discussion with this applicant as to pick-up and delivery service in Portland, if the application is granted?

A. In Portland?

Q. Yes.

A. We have discussed the possibility of pick-up and delivery, and I think he has discussed with several other carriers, the same as some other carriers in town do with me.

Q. As I understand the situation, you are satisfied entirely with the service to Southern Oregon?

A. With the withdrawal of the Pacific Truck Express, no.

Q. How many operations are there in Southern Oregon
123 at the present time.

A. Eliminating the Pacific Truck Express, we have the Consolidated and Pierce; they are the only ones I know of now, that are available for prompt dispatch.

Q. What about delivery to the Southern Pacific Company?

A. You are speaking of rails? I have no complaint of the rails.

Q. Isn't that sufficient into Southern Oregon, in your opinion?

A. No: I still don't agree that the railroad can pull into a railhead and distribute to the surrounding territory as efficiently as a truck line can.

Q. In other words, where would you draw a line as to what competition should be had? Would you let it go unbridled?

A. Not at all. But I think we ought to have sufficient equipment by the reliable concerns to handle that traffic for the customers; for the customers that I serve at the present time, I don't believe it is adequate now.

Q. Insofar as you know, has there been any criticism on the inability of the present carriers to handle the shipments into Southern Oregon by Pierce, Consolidated, or Southern Pacific?

A. No, but you are eliminating one of the lines in there.

Mr. BEROL. I am going to object to this testimony as to the adequacy of the service between Portland and Southern Oregon points, on the ground that it is largely a question
124 of dealing with intrastate traffic. I didn't object to the earlier questions, because they were testing his views on competition. Oh, I will withdraw the objection.

By Mr. ROBERTS:

Q. Those three outlets are sufficient to carry the traffic into Southern Oregon, are they not?

A. I imagine that a goodly portion of the traffic that is now going by their lines is adequately served, but if you eliminate—and I still maintain that they will be eliminated—there will be one truck line eliminated—and I say they need more service.

Q. Do you mean that either the Consolidated Freightways, or Pierce Auto Freight Lines, or the Southern Pacific will be eliminated?

A. No; the Pacific Truck Express.

Q. But insofar as the Pierce Lines are concerned, the Consolidated and the Southern Pacific, can't they handle all that business in Southern Oregon?

A. I doubt it.

Q. You doubt it?

A. Yes, I do.

Q. Why did you arrive at that conclusion?

A. There are certain reasons for not using the Consolidated Freightways, and certain reasons that shippers have for not using Pierce, and certain reasons for not using the Southern Pacific.

125 Mr. FARRENS. Pardon the interruption, but I think we are wasting a lot of time; and I can assure the Board that the Pacific Truck Express is not going to be eliminated, either intrastate or interstate, to Southern Oregon points.

Mr. ROBERTS. There isn't any contention that they are going to operate a through service from Portland to Coquille, for instance?

Mr. FARRENS. There certainly is no evidence on the point as yet. It is an assumption, and wholly speculative.

Mr. BEROL. I think the order of the Commission showing the transfer of the Pacific Truck Express to the Pacific Motor Truck Company is going to be placed in evidence.

Mr. FARRENS There is no contention that the service will be eliminated to Southern Oregon points.

Mr. ROBERTS. I think that is all, so far as I am concerned.

Cross-examination by Mr. FARRENS:

Q. For my information, I would like to know where you got your information that the Pacific Truck Express is going to drop out of the picture so far as Southern Oregon and Coos Bay business is concerned.

A. It just comes up as the discussion of the draymen, and the discussion of customers, that it has been taken over by the Southern Pacific, to operate under the Pacific Motor Trucking Line, which are operated as a subsidiary of the

126 Southern Pacific.

Q. I think there has been a great deal of whispering, a whispering campaign, on the part of the competitors of the Pacific Truck Express. I think we had better get busy to remove the rumor.

A. Am I still to continue to do pick-up and delivery work from the Pacific Truck Express, on the same basis as I did before?

Q. That is a question I can't answer, as to whether they will use the same draymen for pick-up and delivery. Certainly that is not a question I am going to discuss with you on the witness stand, I assure you.

A. All right.

Mr. FARRENS. That is all.

Cross-examination by Mr. HEDGES:

Q. What operating rights, interstate, does the Pihl Transfer and Storage Company hold?

A. Commodities generally from Portland, Oregon, to points and places in Oregon and Washington.

Q. Why have you used the services, then, of these other carriers?

A. We are an anywhere-for-hire operator, and it is sometimes not economical to use such equipment, and we have therefore used the truck lines.

Q. Are your operating rights restricted to any particular
172 minimums on these pool cars that come in? Did I understand you to say that you acted as the shipper's agent?

A. It could be classified as that. I don't know exactly how a city cartage man should be classified. We are not the shipper, but we act under instructions from our principals. I imagine we are the shipper's agent.

Q. Did you make application in the past year or so for a broker's license?

A. I did.

Q. To cover this type of operation?

A. Not that particular type of operation; no.

Q. Didn't you represent at that time that the type of business you did was such that you considered you were a broker? Wasn't it this type of business that you relied upon for a broker's license?

A. Not altogether household goods moving, principally; likewise, arranging for traffic with local shippers and with eastern shippers; yes.

Q. On these pool car shipments, didn't you, or do you perform a part of the transportation yourself from the pool car to destination?

A. In a majority of cases, we do.

Q. What is that part which you perform?

A. Delivery to the carrier.

Q. Delivery from the pool car to the carriers, primarily?
128 A. That is right.

Q. Do you do that as a shipper or carrier?

A. As a carrier under contract with the carrier that is carrying it beyond.

Q. Then, I understand that you perform that as a carrier and not as a shipper?

A. That is correct.

By Exam. KEPHART:

Q. Has that application been heard yet?

A. Yes; my application has been heard.

By Mr. HEDGES:

Q. By the way, Mr. Wilson, has an order been entered on that application?

A. It has not.

Q. As a carrier, do you receive a different compensation for delivering from the pool car to the motor carrier than you would if you were a shipper?

Mr. BEROL. I will object to that as incompetent, irrelevant, and immaterial, and improper cross-examination.

Mr. BROWN. The objection is sustained.

Mr. HEDGES. I have no more questions.

Mr. JONES. No questions.

Redirect examination by Mr. BEROL:

Q. I think you mentioned there were two carriers between the Portland area and Southern Oregon, Consolidated and Pierce. Did you include the Coos Bay area in that?

129 A. No.

Q. How many carriers operate between Portland and the Coos Bay area, performing truck service?

A. Speaking of motor carriers, with the elimination?

Q. Well, if you eliminate the Pacific Truck Express?

A. One through carrier.

Q. And what is that?

A. The Pacific Truck Express.

Q. I thought you were eliminating that.

A. That is the only through carrier that I know of.

Q. Does the Consolidated serve the area?

A. I don't believe, regularly. They may have rights; I don't know.

Q. Did the Pierce Auto Freight Line ever solicit your traffic between Portland and points in California?

A. They never have.

Q. Did they ever advise you as to what their service was?

A. No.

By Chairman TERRIL:

Q. In connection with the application of Pihl Transfer and Storage Company for a brokerage license, did you not state that your purpose in that proceeding, in filing the application, was to find out what, if any, of your operations were those of a broker, and what otherwise?

A. That was one of the questions that we wanted to develop.

Q. You were not sure which one of your operations were

130 brokerage operations, and which were those of a carrier?

A. That is right.

By Exam. KEPHART:

Q. Has the recommended order come out yet?

A. No.

By Mr. HEDGES:

Q. You say that there are two carriers serving the Coos Bay area. Why didn't you mention Pihl?

A. We are a carrier in Coos Bay, with many other intrastate, anywhere-for-hire carriers, in truck load lots; but I have a prohibitive rate structure which does not provide for any minimums, and therefore, I could not adequately serve the public on regular routes, on merchandise that is in less than truck load quantities.

By Mr. BEROL:

Q. As a matter of fact, you haven't any authority to render a regular route schedule service?

A. I haven't any restriction.

Q. Are your operations that of a regular route operator or an irregular route?

A. Irregular.

Q. Therefore, to serve the Coos Bay area, it would be necessary to convert your operations from an irregular to a regular route operator?

A. I imagine they would convert me into it.

Mr. BEROL. That seems to be all.

Chairman TERRIL. You may be excused.

(Witness excused.)

131 Mr. BEROL. Mr. Smart.

L. V. SMART was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name, please?

A. L. V. Smart.

Q. Where do you reside?

A. Portland, Oregon.

Q. What is your occupation?

A. Auto freight.

Q. With what company are you connected?

A. Smarts Auto Freight.

Q. In what capacity?

A. President.

Q. Where does the Smarts Auto Freight operate?

A. Between Portland and Seattle and between Portland and Astoria, and intermediate points.

Q. What is the nature of the service with respect to regularity which you perform between Portland and Seattle?

A. In interstate commerce.

Q. How often?

A. Daily.

Q. What is the nature of the service with respect to regularity that you perform between Portland and Astoria?

A. That is a daily service.

132 Q. Now, respecting your operations between Portland and the Seattle area, and the Portland and the Astoria area, do you have occasion, on behalf of your shippers, to ship freight to California points?

A. I do.

Q. How frequently?

A. Daily.

Q. What services are available to you at the present time between your terminal at Portland and California points by way of connecting carriers?

A. Do you mean to the San Francisco Bay area?

Q. The San Francisco Bay area; yes.

A. The Pierce Auto Freight, the Cascade, California Northwest, and Mitchell.

Q. The Consolidated?

A. Well, they are not available to me.

Q. Why not?

A. They refused to file through rates, making the rate higher by shipping that way.

Q. Can you successfully use that service if it makes the rate higher than the through rate?

A. I cannot.

Q. Have you attempted to use any of the other carriers you have mentioned?

A. I believe I have used all the other carriers.

133 Q. What has been your experience?

A. Well, some of the carriers only operate in there at times when they have freight.

Q. Take, for example, the California Northwest, Mitchell, or the Cascade. Has that service been available to you on a daily schedule?

A. I don't believe it has; I have never considered it as daily service.

Q. Has Pierce been available to you as a daily service?

A. They have been available for a daily service, but, as I said before,—no; I don't believe I mentioned it. But, they transfer at Medford.

Q. Do you know whether that daily service has been made available lately?

A. I understand it has been made available on daily through service within the last two or three weeks.

Q. Now, are you familiar with the Oregon-Nevada-California Fast Freight operation?

A. Yes.

Q. Do you understand in a general way the nature of the application they have pending here?

A. I do.

Q. Do you understand that they are seeking generally to extend their service from San Francisco, through Medford and Klamath Falls to Portland?

134 A. Yes.

Q. Do you understand that it is their proposal to offer a service that will give you schedules out of San Francisco nightly, and also in the morning?

A. Yes.

Q. Have you also been advised that they offer schedules from Portland which will also be nightly and in the morning?

A. I understand they do.

Q. Take, for example, traffic that you handle between Portland and Seattle. What time does that equipment leave Portland?

A. Usually between seven and eight o'clock in the evening.

Q. Have you discussed with any representative of the Oregon-Nevada-California Fast Freight the question of making connections with that schedule, or with their schedule?

A. I have.

Q. Will you be able to do so?

A. Yes.

Q. What time of delivery would that permit you to make into Seattle from the San Francisco Bay area?

A. It would make possible a second morning delivery into Seattle from San Francisco.

Q. Are you able to make connections with any other carrier giving you second morning delivery into Seattle?

A. No.

Q. Have you been able to do so in the past?

A. No.

135 Q. Would the same situation exist on traffic destined, from points in Washington south of Seattle, to the San Francisco Bay?

A. It would if they would pull from there in the morning in order to give morning service to arrive in San Francisco the following morning, which would give overnight service north-bound as well as south-bound.

By Exam. KIPHART:

Q. When you say morning service, what do you mean?

A. Around six or seven o'clock.

Q. Not later than that?

A. Of course, the time leaving here would govern the time of arrival in San Francisco.

By Mr. BEROL:

Q. What time is your equipment available here from Seattle in the morning?

A. Usually from five o'clock on.

Q. And if a schedule was intended to leave here for the San Francisco Bay area approximately eight o'clock in the morning, would that enable you to make connections?

A. It would.

Q. Now, with respect to the service which you perform between Portland and Astoria, Oregon, what time does your equipment leave Portland for Astoria?

A. In the evening; about the same time as the Seattle run; occasionally later.

136 Q. Then you would likewise be able to make connections on the schedule from San Francisco for points intermediate between Portland and Astoria, and including Astoria?

A. Yes.

Q. What time does the equipment leaving Portland arrive at Astoria?

A. About midnight.

Q. You would likewise be originating traffic between Portland and Astoria?

A. That is correct.

Q. Would the kind of service that is proposed be of any assistance to you in the conduct of your business?

A. It would.

Q. Would it be of any assistance or benefit to the shippers that you serve?

A. It would give the shippers a day quicker service than they are getting at the present time.

Q. Do you consider that, for your needs, in the service that you perform, the present facilities between Portland and the San Francisco Bay area are sufficient or insufficient?

A. Insufficient.

Q. If the Oregon-Nevada-California Fast Freight were permitted to operate between San Francisco Bay points and Portland, would you then believe that the service would be adequate to your needs?

137 A. Yes.

Q. For how long a time have you known the Oregon-Nevada-California Fast Freight people?

A. Ever since they started operation.

Q. Do you have sufficient knowledge of them to know anything as to their reliability? Do you know whether or not they are a reliable transportation agency?

A. I have always considered that they have built up their business on service.

Q. Now, if they were permitted to extend their operations into Portland, would you use them?

A. I would; yes.

Q. Have you discussed with any representative of the Oregon-Nevada-California Fast Freight the matter of entering into joint rates?

A. I have.

Q. And have they agreed to do so?

A. They have.

Q. And have you agreed to do so?

A. Yes.

Q. Have you had any discussions with any representatives of the Oregon-Nevada-California Fast Freight respecting the possibility of operating through equipment between Seattle and San Francisco Bay Points?

A. Yes; I have discussed that with them.

138 Q. And what has that discussion consisted of?

A. Well, the possibility of bringing trailers in here from San Francisco and taking them right on to Seattle, without transfer, or vice versa.

Q. Are there any commodities under which a service of that kind would be preferable to a service which requires an interchange at Portland?

A. Yes.

Q. What kind of service?

A. On perishable goods.

Q. Have you gone into the question as to whether or not the equipment operated by the Oregon-Nevada-California Fast Freight and the equipment operated by your company are of such a type that interchange is possible?

A. They are practically the same equipment.

Q. So that you could effect an interchange?

A. Yes.

Q. Is it your statement that if the application of the Oregon-Nevada-California Fast Freight is granted, and that if it should become necessary to do so, you will interchange equipment with them?

A. Yes.

Q. And that you will do so under such rules and regulations as the Commission may determine?

A. Yes.

Q. Is there anything that you desire to add to your testi-
139 mony, Mr. Smart?

A. Well, I have always hoped for a service of this type to San Francisco. We tried the other lines down there, and there has at no time been a line that has operated out of there at night, that connected the following evening for Washington points, which, of course, made the service a day later. I will state that, with the exception of the line I operated a year or so ago, which came to Portland, where that service was given. We made a delivery to Seattle on the second morning.

Q. And did you cease that because there was some question about your operating rights?

A. I was asked to cease operating by the Interstate Commerce Commission.

Q. A year ago?

A. Yes.

By Mr. BROWN:

Q. Do you now effect any joint rates between carriers, or with carriers who operate to San Francisco points?

A. I am not entirely familiar with that, but I believe we do have through rates with the Pierce Auto Freight.

Q. Do you know?

A. I am not sure.

Mr. BROWN. Do you know what the fact is, Mr. Berol?

Mr. BEROL. I don't know. I can obtain it.

By Chairman TERRIL:

Q. Can you estimate, or do you know what tonnage you
140 would have available to connect up and turn over to the Oregon-Nevada-California operation at Portland from the north or from the Astoria operation?

A. We have shipments daily going down there; I have not checked up the tonnage, but I would say, as a guess, it would vary from ten tons up to twenty to twenty-five tons a month of miscellaneous freight.

Q. Have you made any survey, or do you know what might be available in return from the south for that operation to Seattle or Astoria?

A. We have never handled much freight from San Francisco into those points, but we have inquiries daily from those stations, as to who they can route by and who gives satisfactory service out of there.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ELLIS:

Q. As I understand you, the Pierce Auto Freight Lines is the only truck carrier serving between Portland and the San Francisco area at the present time that meets any part of your needs as a connecting carrier?

A. As I understand they have put on a daily through service within the last couple or three weeks, but until I came up here today I didn't know that. I knew there was a transfer made at Medford up until that time.

Q. You knew, did you not, that they had been giving weekly service through from Portland to San Francisco for some
141 period of time?

A. I had heard that they did.

Q. Did you know that the delay in inaugurating the daily service down there was the result of protests and matters of that kind before the Interstate Commerce Commission?

A. I didn't know the reason for it.

Q. Are there any other carriers at the present time that would serve as a satisfactory connection, if the hours of arrival and departure into Portland were different?

A. I know that there is no other carrier. You say that Pierce has that service now, but outside of that I don't know of anybody that is giving service down there that is satisfactory.

Q. Now, in the event the Pierce schedules were so changed so as to arrive in Portland from San Francisco in the evening, as is proposed by this applicant, would that largely meet your necessity?

A. Well, so far as one carrier goes, it would. I feel that there should be more than one operation in through service from down in that territory up here.

Q. Well, you know there are other through carriers operating direct out of Puget Sound to San Francisco and other California points?

A. Yes; I know there are other services.

Q. Do you know of any reason why it would not be
142 practical to interchange freight with Pierce in the event his schedule should be so changed as to correspond with that which is here proposed?

A. I feel that a shipper, as well as the connecting carrier, should have some choice and should not be tied down to one carrier. I feel they should not be tied down to one carrier for their connections.

Q. Do you believe that the proposal to interchange equipment, as suggested here, is practical?

A. I think it is.

Q. Do you know of any reason why a similar interchange could not be arranged at Medford?

A. I am not familiar with the set-up down there at Medford, but it seems to me, as I understand, there has been some exchange of that nature going on.

Q. Would you have any objection to interchanging equipment with the Pierce Auto Freight Lines, in the event their schedule should be rearranged to make proper connections with you?

A. I have never been approached by Pierce to give any service like that.

Q. You don't know of any reason why it could not be done?

A. No; I don't know of any reason.

Mr. ELLIS. That is all I have.

Chairman TERRIL. Any further cross examination?

Mr. FARRENS. Nothing.

143 Mr. SCHAFER. No questions.

Redirect examination by Mr. BEROL:

Q. In answer to a question propounded by the Joint Board Member, you indicated that there was some twenty to twenty-five tons per month available over your line to San Francisco at the present time?

A. Yes.

Q. Would that amount be increased or decreased in the event you had a connection with a carrier such as the Oregon-Nevada-California Fast Freight?

A. I think it would be greatly increased.

Q. Why.

A. From the inquiries we have from different stations regarding that service.

Q. Now, you were asked a question by counsel for Pierce respecting the possibility of an interchange with Pierce. Is that line the agent of the Valley Express Company between Portland and Seattle?

A. No.

Q. Do you know what line he has tied in with that?

A. I understand the P. H. T. are their agents.

Q. The Pacific Highway Transport?

A. That is correct.

Q. Do you know whether Pierce Auto Freight are tied in with the Valley Express Company?

144 A. I understand they are their agents—their Portland agents.

Q. And if they are the Portland agents of the Valley Express Company, would you likely get the same treatment from them?

A. I probably wouldn't get any treatment.

Mr. BEROL. That is all.

Chairman TERRIL. That seems to be all.

(Witness excused.)

Mr. ADAMS. Mr. Hendershott.

ARTHUR HENDERSHOTT was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you state your name?

A. Arthur Hendershott.

Q. Where do you reside?

A. Eugene, Oregon.

Q. What is your business?

A. Athletic and sporting goods business.

Q. Under what name do you do business?

A. Hendershott's.

Q. You are the proprietor?

A. Yes.

Q. How long have you been in business in Eugene?

A. Thirty-three years.

Q. In the same business?

A. Yes.

145 Q. In the conduct of your business do you have occasion to make shipments between Eugene and San Francisco Bay points?

A. Yes; I do quite a good deal of buying in San Francisco.

Q. And what are the commodities that you buy in San Francisco? What do they consist of?

A. Well, I buy ammunition and athletic and sporting goods; I buy quite a good deal of material for awnings and tents, and different things like that.

Q. Ammunition?

A. Yes.

Q. How frequently do you have occasion to ship from San Francisco to Eugene?

A. Every week I have shipments coming in.

Q. Is that once a week or more than once a week?

A. Sometimes it would be once a week, and some weeks I would have one or two shipments.

Q. What is the average weight of your shipments?

A. My business is rather a small business, and my shipments would be from 100 to 1,000 pounds.

Q. What kind of transportation have you been using to obtain those shipments from San Francisco to Eugene?

A. The Southern Pacific Railway and different truck lines.

Q. And what truck lines?

A. Well, we have had shipments come in over the Cascade and the Pacific Truck Express and the Consolidated.

146 Q. Now, as between the three, which of those three lines have been receiving the bulk of your shipments by motor truck?

A. Well, I would say it has been pretty well divided.

Q. As between the Pacific Truck Express and the Consolidated and the Cascade, from whom did you receive the faster service?

A. I would, without making much of a study of it, state that I believe that the Pacific Truck Express had the fastest service.

Q. Do you know whether or not it was a through service from San Francisco?

A. No, sir; I do not.

Q. Have you been informed that the Oregon-Nevada-California Fast Freight is applying here for authority to make through shipments from San Francisco to Eugene?

A. Yes; I understand that.

Q. What have you been told with respect to the time in transit, or the time that would transpire in that kind of an operation, if authorized, for a shipment from San Francisco to reach Eugene?

A. So far as the service that they could render?

Q. Yes.

A. As I understand it, a shipment leaving San Francisco, say, tonight, if it is not too late tonight, that would be delivered at my store tomorrow evening before I close.

Q. And you close at what time?

147 A. Six o'clock.

Q. Are you receiving service of that kind at the present time?

A. I am not.

Q. Would a service of that kind constitute any advantage to you in your business?

A. My business is competitive, and I have to give that good service to compete.

Q. Is time in transit of any consequence to you?

A. Very much.

Q. If the applicant were authorized to perform the service it proposes, would you have occasion to use that service?

A. Yes.

Q. And you would use it?

A. Yes.

Q. And do you feel it would be an advantage to you in the conduct of your business?

A. If they can deliver that fast, I think it would be quite a help.

Mr. ADAMS. You may take the witness.

Cross-examination by Mr. ROBERTS:

Q. You have been in business thirty-three years in Eugene?

A. Yes.

Q. How large a percentage of your shipments from California are by truck and how large a percentage are shipped by
148 the Southern Pacific?

A. I would say that they come pretty well divided.

Q. About fifty-fifty?

A. That is about right.

Q. In the shipments which you receive by rail, delays are not of particularly any importance to you?

A. Delay by rail?

Q. Yes.

A. It is important, yes; when I order it, I would like to get it as fast as I can.

Q. You do get it in satisfactory time, do you not?

A. Oh, in the thirty-three years time I have been taught not to expect it too quick.

Q. You have used the Pacific Truck Express?

A. Yes.

Q. What kind of service has that been? Has it been satisfactory?

A. Yes; it has been all right.

Q. Is that an expeditious type of service such as you want?

A. That has been pretty good.

Q. And insofar as your needs are concerned, you are adequately taken care of by that service?

A. I have done better that way than with the freight on the railroads.

Q. I am talking about your needs and requirements.

149 A. About the service?

Q. The service that you have been receiving through the Pacific Truck Express. It has met your requirements so far?

A. Yes; it has.

Q. And, in other words, you have no reason to complain?

A. No.

Q. Insofar as the service you have received, there is no occasion for you to want any change?

A. I would like faster service.

Q. I thought you said that the Pacific Truck Express gave you a sufficiently expeditious service to meet your requirements.

A. They do at the present time, but I understand I am not to get that service any longer, perhaps. Anyway, I am all for getting the service improved.

Q. What is the time elapsing now?

A. For what shipments?
Q. As to your shipments via the Pacific Truck Express?
A. The time elapsed?
Q. Yes.
A. From the time it leaves San Francisco?
Q. Yes.
A. I haven't got the schedule.
Q. Don't you know about how much time it takes?
A. I would not say that they make delivery the following
150 evening. I would say the next day, if you are trying to pin me down to hours.
Q. I am not trying to pin you down to anything. I just want your ideas in the matter.
A. I would like to have the service speeded up. I guess I am like all other merchants; we like to get possession of the merchandise as quickly as possible.
Q. But there is no emergency that would require that you receive it that expeditiously?
A. Sometimes. Sometimes, if it would take a week it would be all right; at other times, we would like faster service.
Q. You have used the Consolidated Freightways, and the Oregon-Nevada-California Fast Freight on some of your shipments received from the Bay region?
A. The Consolidated. We have never shipped by the Oregon-Nevada-California Fast Freight.
Q. Aren't you aware of the fact that there has been an exchange between the Oregon-Nevada-California Fast Freight and the Consolidated? That there has been an interchange at Medford?
A. No; that was news to me.
Q. You didn't know about that?
A. No; I didn't know.
Q. Was there anything wrong, insofar as your requirements and needs were concerned, with the shipments obtained
151 through the medium of the Consolidated?
A. It was all right with me.
Q. Everything was entirely satisfactory?
A. So far as I know.
Q. You have no reason to complain as to the present service?
A. No, sir.
Mr. ROBERTS. I think that is all.
Chairman TERRIL. Any further cross?
Mr. FARRENS. Yes.

Cross-examination by Mr. FARRENS:

Q. Did the Oregon-Nevada-California Fast Freight tell you they were going to give you faster service from San Francisco

into your place in Eugene than the Pacific Truck Express have been giving you?

A. I don't believe they made that statement.

Q. Have you gotten the impression that their proposed service will be a faster service in their delivery to you at Eugene from San Francisco?

A. I would say that is the impression I have.

Q. Where did you get that impression?

A. Where did I get that impression?

Q. Yes.

A. From a Mr. Snyder.

Q. Who is Mr. Snyder?

A. I wouldn't know who he is, but I guess he is a man that
152 works for the company.

Mr. BEROL: That is correct; I will so stipulate.

By Mr. FARRENS:

Q. How did he manage to put that impression into your mind, that the proposed service he was going to give was superior to the Pacific Truck Express?

A. How did he put it into my mind?

Q. What did he say?

A. What did he say?

Q. Yes.

A. I don't know as I can quote him word for word.

Q. Well, the substance of it.

A. He said that if they were allowed to operate into Oregon, they are going to try to improve the service; he said it would be quicker than the service given now.

Q. Did he mention the Pacific Truck Express, among those with whom he was comparing the service?

A. I don't believe he did.

Q. Supposing he was improving the time of delivery of some companies but not of the Pacific Truck Express? You have been getting good service from the Pacific Truck Express?

A. Yes.

Q. But if he didn't beat that service, it would be of no value to you?

A. No.

Q. As I say, you don't know whether he stated that the
153 schedules would be better than of the Pacific Truck Express?

A. No.

Q. You are under the impression that possibly they don't get into Eugene in time to make a next-day delivery to you before the store closes in the evening?

A. I think that is right.

Q. Did your informant tell you the exact time when deliveries would be made to you the first day out of San Francisco?

A. I don't know as they gave the hour, but they gave me to understand it would be the next day, before I closed the store at six. He stated it would be the next day at our store.

Q. Did you ever complain to the Pacific Truck Express about the failure to get the merchandise to your store at six o'clock on the next day after leaving San Francisco?

A. No.

Q. If it was a matter of importance to you, wouldn't you have mentioned it?

A. I never thought, as a small shipper, it would do much good. I thought I would have to take my freight as it was delivered.

By Mr. FARRENS:

Q. I am not trying to pick on you.

Mr. BEROL. Much.

Mr. FARRENS. Not at all.

By Mr. FARRENS:

154 Q. I appreciate you are not an expert traffic man, but you are a receiver of freight. You say there are times when the traffic does not get there at six o'clock, before your store closes; but the fact is that the Pacific Truck Express reaches Portland the next evening, and if it was a matter of importance to you, Mr. Hendershott, that it come to you before six o'clock, if you had notified them, they would have given it to you? Wouldn't they?

A. I imagine they would.

Q. You simply don't definitely know whether the schedules planned by this applicant are faster than those which you have enjoyed through the Pacific Truck Express?

A. Experience would have to tell me that; I haven't had them yet.

Mr. FARRENS. That is all.

Mr. BEROL. That is all.

(Witness excused.)

Chairman TERRIL. We will recess for ten minutes.

(Recess.)

Chairman TERRIL. Come to order, gentlemen.

Mr. BEROL. I will call Mr. Veal.

While Mr. Veal is approaching the witness stand, I would like to make a demand on Mr. Farrens. Mr. Farrens has already made a demand on me, and he gave me a warning; and I feel that I should be equally courteous to him in making my demand. We

have heard a great deal about the Pacific Truck Express, and
155 there seems to be some question as to whether or not the Pacific Truck Express are going to continue in operation. There has been some statement in the record, and I understand the formal order of the Commission is to be introduced, showing that the Pacific Truck Express was purchased by the Pacific Motor Trucking Company, a wholly owned subsidiary of the Southern Pacific. I understand that the application for purchase has been granted. Now, the only question that seems to be of any importance here is whether or not the Pacific Truck Express is going to continue their operations as they exist at the present time, or whether the Pacific Truck Express is to become a part of a coordinated rail-truck service; if so, I think we ought to know exactly what the intentions of the Pacific Truck Express are, and what its operations in the future are going to be, so that witnesses may be apprised as to what they may expect to have from the Pacific Truck Express in the way of service.

Mr. FARRENS. The Pacific Truck Express is now operating a through service between Portland and San Francisco. It is my view that the order of the Commission which, as I remember it, restricted the operations so that they could be only between rail stations by truck, permits operations between Portland and San Francisco. Obviously, I could not tell you that the Pacific Truck Express will continue that operation indefinitely. However, I know of no intention on the part of the Southern Pacific
156 to abandon that operation. If, during the hearing, or after the hearing and prior to a decision by the Board, I hear anything to the contrary, or if I hear anything regarding their intention, I will be pleased to place it before the Board.

Mr. BEROL. May I ask if counsel is stating his own views or the views of the Pacific Truck Express that that operation will continue as it is now, or as it has operated in the past.

Mr. FARRENS. I am like most of the protestants here, they don't poll their management before coming to the hearing.

Mr. BEROL. I take it what counsel is expressing is his own views.

Mr. FARRENS. I can't express anybody else's views. There seems to have been a whispering campaign among our competitors that we are discontinuing operations, but, so far as I know, we are not.

Mr. BEROL. I might state that it has not been a whispering campaign, so far as I am concerned. It has been much more than a whisper. I have loudly and diligently stated that it was my understanding that the company was discontinuing its operation on the same scope. If I have been in error, I would like to tender my apologies as loudly and diligently and honestly.

Mr. FARRENS. As I say, as far as I am concerned, their operations are to continue. I have no information to the
157 contrary.

Mr. BEROL. May I ask, then, at one of the subsequent hearings, either at Portland—if there is a subsequent hearing at Portland—or in San Francisco, by which time counsel will have ample time to have taken the matter up with the management, that counsel at that time state definitely what the intentions of the Pacific Truck Express are.

Mr. FARRENS. I have promised you that if, before the end of the hearing, I learn of anything, I will notify you.

Mr. BEROL. That is not what I am asking. I am asking that a definite determination be made, and I am requesting that that information be furnished us at a subsequent hearing, rather than assuming a passive attitude, to advise us if anything to the contrary happens. I am asking that counsel, at the adjourned hearing, definitely state to us the position of the Pacific Motor Trucking Company in that regard.

Mr. FARRENS. Counsel overestimates my power. I haven't the capacity personally, or through my relation as attorney, to force the management of the Southern Pacific to take any action, nor to state to the management that "Mr. Berol is insisting that you make up your mind what you are going to do with the Pacific Truck Express, and that you must advise me so that I can advise him at the next hearing what your intentions are." I don't think the Southern Pacific's decisions are ever made up in that manner.

158 Mr. BEROL. The demand is in the record.

Mr. FARRENS. And the Board may assume that if I am advised to the contrary, I will notify the Board.

Exam. KEPHART. Did you say that the present authorization authorizes interstate service at points where there are railroad stations?

Mr. FARRENS. That is not categorically the fact. There are certain qualifications with respect to service a certain distance from the railroad station. Generally, Mr. Examiner, the order did, by its terms, carry out the function of seeing to it that the Southern Pacific, through its subsidiary, did not branch out into territory normally not within the reach of its rail service.

Mr. BEROL. I think we can proceed with the witness.

C. R. VEAL was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name?

A. C. R. Veal.

Q. What is your business?
A. Treasurer and Manager of R. Veal & Son.
Q. What is the business of R. Veal & Son?
A. The making of chairs and furniture.
Q. Where is that business located?
A. Albany.
159 Q. Albany, Oregon?
A. Yes.
Q. How long have you been in business?
A. Fifty-five years.
Q. At Albany?
A. At Albany.
Q. Continuously?
A. Continuously; yes, sir.
Q. Now, as treasurer and manager of that company, are you familiar with its transportation problems?
A. I am.
Q. Are you familiar with the application of the Oregon-Nevada-California Fast Freight for rights to serve into Oregon?
A. Yes; I am.
Q. Briefly, do you understand that they are proposing a through service between the San Francisco Bay points on the one hand and Portland, Oregon, on the other hand, under which a nightly schedule will be maintained from San Francisco to Portland, and also from Portland to Seattle, and under which a morning schedule will also be maintained from San Francisco to Portland, and also from Portland to Seattle?
A. That is my understanding, sir.
Q. And now, do you have any occasion to make any shipments between Albany and any point in California?
A. Yes.
160 Q. What points?
A. Between Albany and San Francisco, and intermediate points.
Q. What, particularly, as to intermediate points?
A. Redding, Red Bluff, Yreka, Dunsmuir, and so on.
Q. Are your shipments south-bound or north-bound?
A. Furniture goes north-bound—the materials for manufacturing furniture go north-bound, and the furniture goes south-bound.
Q. In other words, the manufactured product moves south-bound, and the raw material moves north-bound?
A. That is correct.
Q. Taking the north-bound movement, what do those materials consist of?
A. North-bound would be furniture cartons, and other materials relating to furniture.

Q. Do they move from San Francisco to Albany?

A. Yes.

Q. Anything else besides furniture cartons?

A. Paint, and other things that go into the making of furniture.

Q. Your south-bound movements consist of completed furniture, and your south-bound movements move how often?

A. Practically every day.

Q. What would be the weight of the shipments, for instance?

A. Of the north-bound movements?

161 Q. All right. Take the north-bound movement.

A. 200 to 2,000 or 3,000 pounds.

Q. What would you say would be fair average north-bound?

A. About 1,000 pounds.

Q. How about the south-bound movements of completed furniture? How often do they move?

A. Practically every day.

Q. What would be the average weight of those shipments?

A. The average weight of those shipments would vary from 150 pounds to 800 or 900 or 1,000 pounds.

Q. With respect to the south-bound shipments, assuming the schedules would be available to you as I have described, which schedule would you use, the morning or evening schedule?

A. The morning schedule south-bound.

Q. And the schedule would arrive at Albany at what time?

A. About eleven o'clock.

Q. Could you have your shipments available at Albany in time to meet the morning schedule?

A. Yes.

Q. Is there anything about the morning schedule permitting you to make your shipments at eleven o'clock in the morning that would be of any particular advantage to your company?

A. It would be an advantage; yes.

Q. Will you state why?

A. Because it would arrive at the destination earlier, and

162 give next day delivery.

Q. As to arrival time at the destination, is that of any importance to you?

A. Yes; it is.

Q. Now, with respect to the north-bound shipments, would you have occasion to use the service such as is proposed here?

A. Yes.

Q. Would you likewise use it on the north-bound shipments?

A. Yes, sir.

Q. Tell me, in the shipment of your commodities, is there any fragility involved in connection with that?

A. Yes, sir.

Q. Will you explain why?

A. Because they are light, and furniture cannot be handled as roughly as cast iron or tin cans.

Q. As between a service that involves interchange of equipment and a service that goes on through equipment, which would you prefer?

A. We don't want a change; we want it to go straight through.

Q. What service have you been using in the past?

A. In the past we have been using the Pacific Truck Express and the Consolidated-Oregon-Nevada-California Fast Freight, and rail.

Q. Has any of those services provided a time in transit such as is proposed by the applicant here?

163 A. No.

Q. Would a service such as is proposed here be advantageous to you in the conduct of your business?

A. Very much.

Q. You are here requesting the Commission to permit the institution of such service?

A. I am. That is right.

Mr. BEROL. That is all. You may take the witness.

Cross-examination by Mr. ROBERTS:

Q. Mr. Veal, you say that you ship from 200 to 2,000 pounds north and about 150 to 1,000 pounds south daily. How much of that is by truck? Is that correct?

A. Practically every day.

Q. How much of that is by truck?

A. North-bound or south-bound?

Q. Take north-bound first.

A. As to comparison by truck?

Q. On north-bound.

A. About 100%.

Q. How about south-bound?

A. Perhaps 25% or 30%.

Q. As to shipments which are north-bound, is there any particular reason why the service heretofore given you has not been satisfactory?

A. You mean by the Pacific Truck?

164 Q. Yes.

A. Why, it has been satisfactory; it has not always been available; that is, they are sometimes loaded up, and I have to reship it another route.

Q. What other route do you speak of?

A. The Pacific Truck north-bound and the Oregon-Nevada-California-Consolidated. There has sometimes been a delay.

Q. Tell us some more about that.

A. Well, the material is usually ordered early, but sometimes we need quick shipments. And when we want quick shipments, delay makes a difference.

Q. With the type of material that you use, such as varnish and paint?

A. That is right.

Q. Don't you stock a sufficient amount of that to take care of your needs?

A. We do most of the time. But we don't like to tie up a lot in things like that.

Q. You don't need 100 pounds or 500 pounds of paint in that big a hurry? You certainly have a stock to take care of your needs, don't you? Don't you have a stock of a few hundred pounds?

A. We have a great number of items and I think 200 pounds of one item would be quite a bit. That runs into considerable money in the inventory.

165 Q. What I am getting at, isn't your inventory large enough to take care of ordinary situations, or ordinary requirements when you receive daily shipments?

A. That is purely a question of management. Oftentimes we are out before the material arrives.

Q. But as to the Pacific Truck Express, has that service been satisfactory, the service which they have given you?

A. Yes; if it will continue.

Q. But insofar as it now is in operation, is it entirely satisfactory?

A. Well, the rumors are pretty strong in my neighborhood right now.

Q. Insofar as it is now in operation, isn't it entirely satisfactory?

A. It is, if they are able to take it all.

Q. How many occasions have you had where they were unable to take all the shipments you tendered?

A. Probably six or seven times within the past year.

Q. Has that meant any particular delay or damage to you?

A. It has; yes.

Q. Has that been on north-bound or south-bound shipments?

A. North-bound.

Q. You don't have the stock complete in your inventory at all times?

A. Oh, no.

166 Q. And you did not at those times?

A. No; we were out.

Q. Now, have you used the Consolidated-Oregon-Nevada-California Fast Freight service?

A. Yes; we have.

Q. Have you found that service satisfactory?

A. They have handled the merchandise carefully, and the merchandise, as a rule, has been received in good condition.

Q. And the only criticism that you have relative to their operation is the delay which it has occasioned?

A. The delay in loa ing and unloading the merchandise is one thing. Furniture should not be handled—should not be loaded or unloaded—anymore than necessary.

Q. Do you know whether there is any physical rehandling at Medford?

A. It is my understanding there is.

Q. Don't you know that they do operate through trucks and trailers?

Mr. BEROL. Just a minute. I will object to that on the ground that it assumes a fact that is not in evidence. As a matter of fact, if the facts were in evidence, they would be inconsistent with the statement of counsel. In order that the witness may be wholly informed, I think it is fair to state, insofar as the Consolidated-Oregon-Nevada-California Fast Freight operations on through equipment are concerned, that is for the purpose of operating through equipment on perishables—and I don't think furniture is a perishable.

167

Mr. ROBERTS. No; hardly. If you say that is the situation, I will accept it and will have no further cross-examination.

Mr. BEROL. That is a fact.

Mr. ROBERTS. Then I will have no further cross-examination on that point.

By Mr. ROBERTS:

Q. Do you know anything about the Pierce Auto Freight Lines? Do you know anything about their service?

A. I know a little bit about it. We have had requests to make shipments over them, but we can't find them.

Q. Can't you find the line?

A. That is right; in Albany.

Q. Do they have an office in Albany?

A. We can't find it.

Q. You knew it was in business?

A. We have had requests, but there is no office. At least, I can't find it.

Q. Do you know an operation known as the Silver Wheel Auto Freight?

A. Yes.

Q. Did you ever use that?

A. Yes; on Portland shipments.

168 Q. Do you know whether or not that is the Pierce Auto Freight agency?

A. I didn't know that.

Q. You didn't know that?

A. No, sir.

Q. Would a service, which is similar to the Pacific Truck Express, be satisfactory to you?

A. Not as satisfactory as the gentleman over there [indicating] mentioned.

Q. Why?

A. Because there is an extra day lost on south-bound shipments.

Q. As to north-bound, it is satisfactory?

A. North-bound; it is very good.

Q. If from an operating standpoint this delay would be taken care of between the Oregon-Nevada-California Fast Freight and the Consolidated at Medford, would that meet your requirements?

A. I don't quite understand.

Q. As I understand your testimony, you know of the interchange—physical interchange—of equipment at Medford; is that correct?

A. Yes.

Q. I am saying, if that were speeded up, from an operating standpoint, so that the schedule would be made more fast,

169 would that meet your requirements?

A. No; it would not.

Q. Why not?

A. Because we don't like to have the merchandise transferred in shipments.

Q. Is that the only reason?

A. And then the delay.

Q. If the delay were taken care of?

A. I don't think you can eradicate the delay.

Mr. ROBERTS. I think that is all.

Cross-examination by Mr. FARRENS:

Q. Would you enlighten me as to the source of the rumors concerning the abandonment of the Pacific Truck Express operation between Portland and San Francisco?

A. The rumors?

Q. Yes.

A. It is generally known; everybody is discussing it and seems to think it is.

Q. With whom have you discussed it who has expressed the view that it will be abandoned?

A. Various shippers in Albany.
Q. Albany shippers?
A. Yes.
Q. Did the representative of the applicant in this case tell you there would be an abandonment of that service?
170 A. Who do you mean?
Q. The applicant.
A. That is the general understanding. I have been here listening to you.
Q. You have heard me deny it?
A. Yes.
Q. What I am anxious to know, has any truck line representative told you there would be such abandonment?
Mr. BEROL. I will stipulate that I told the witness it was my understanding.

By Mr. FARRENS:

Q. Did you receive that information from anyone besides counsel for the applicant?
A. Yes; shippers.
Q. I mean truck representatives?
A. No truck representatives.
Q. Mr. Berol is the only one that told you?
A. That was representing a truck.
Q. The Pacific Truck Express schedule is approximately the same south-bound as north-bound. I would like to know why the north-bound schedule meets with your favor and you find fault with the south-bound.
A. I have not been told by a Pacific Truck representative that they will receive a shipment at eleven o'clock and deliver it in San Francisco the next day.
Q. When would they receive shipments in Albany?
171 A. 3:30 in the afternoon.
Q. And it would not be delivered in California the next day?
A. No.
Q. Where did you get that impression?
A. From experience.
Q. Do you mean that you have sent shipments out, as a regular matter, and they were not delivered the next day?
A. No.
Q. Do you mean to tell the Joint Board that, with that schedule, it takes more than 24 hours to get the merchandise to San Francisco?
A. That it takes more than 24?
Q. After it leaves Albany.

A. That truck does not leave at 3:00 o'clock. The pick-up truck takes it at 3:00 o'clock.

Q. What time do they go through?

A. I think, about midnight.

Q. You are positive that you have never had a delivery the following day of your furniture?

A. That has been my general opinion of it.

Q. Now, it is San Francisco that you are talking about?

A. I am talking about points south.

Q. South of San Francisco?

A. Redding, Dunsmuir, and so on.

Q. Do you mean to tell me that the Pacific Truck Express
172 schedule, which goes through Albany and actually picks up your shipments of your furniture, that it is not able to deliver it to Dunsmuir the next day?

A. That is my opinion; you ought to know; you are their representative.

Mr. FARRENS. I think that is all.

Chairman TERRIL. Any further cross of this witness?

Redirect examination by Mr. BEROL:

Q. Some suggestion was made about maintaining sufficient stock to take care of your requirements. Take, for example, the matter of paints and paint material. Do you use any amount of paint, or a number of paints?

A. I use a number of paints.

Q. Approximately how many kinds?

A. Probably 25 or 30 different kinds.

Q. So that if you had to maintain a stock at all times, it would not be maintaining 200 pounds of one kind of paint of sufficient quantity, but a sufficient quantity of all kinds?

A. That is right. It is a serious thing to run out of one kind of paint. Suppose you run out of it on an order, and it is a rush order, and you don't have any more of that kind of paint. You can see what that would mean. I presume, if it was the last word in official management, we would not run out; but it just happens that we do run out.

Q. Does that apply to other materials that go into your furniture?

173 A. Yes, other material such as cartons that we use, and materials that we use for wrapping furniture.

Re-cross-examination by Mr. FARRENS:

Q. What value to you is it to go out at eleven o'clock in the morning? As a matter of fact, a shipment which you had to have ready to leave Albany for the south at eleven o'clock would have had to be picked up the afternoon before, wouldn't it?

A. I suppose a person could think of it in that way.
Mr. FARRENS. That is all.
Mr. BEROL. I think that is all.
(Witness excused.)
Mr. ADAMS. I will call Mr. Dawson.

CHARLES DAWSON was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. State your name.
A. Charles Dawson.
Q. Where do you reside?
A. Yakima, Washington.
Q. What is your employment or occupation?
A. Traffic Manager of Forney & Sons, Inc.
Q. And their headquarters are at Yakima, Washington?
A. Yes.
Q. What is the business of your company?
174 A. Freight transportation.
Q. Between what points does your company operate?
A. Seattle and Yakima Valley points; Yakima, Wenatchee, and Valley points; and between Portland and those same points.
Q. Does your company transport any shipments between Portland and the Yakima and Wenatchee valleys, which originate or are destined to points in California?
A. Yes, we do.
Q. What California points?
A. The San Francisco Bay area, primarily.
Q. What commodities?
A. Commodities?
Q. Yes.
A. General commodities.
Q. Are you here supporting this application, Mr. Dawson?
A. Yes.
Q. Why do you say that?
A. We have need for a carrier, a competent carrier, with whom we can concur into those points to provide them with service; that is a thing that is of importance to us. The fact that the transportation business is getting more into the larger firm fields, that leaves the small operator out on the limb.
Q. Will you explain that more fully?
A. If he does not have small operators to concur with
175 into the territories which he serves with that particular type of service, he is out on a limb.
Q. You mean, through connecting carriers?

A. Through connecting carriers.

Q. Did you investigate this applicant, the Oregon-Nevada-California Fast Freight?

A. I have.

Q. Prior to appearing here today?

A. Yes; I have.

Q. And your statement is that you are looking for reliable carriers——

A. (Interposing.) That is correct.

Q. Your statement is based on your investigation of this carrier?

A. Yes.

Q. Would you consider this carrier a reliable carrier?

A. On the promise that they have given that they will maintain a schedule of that particular type, that will give us a second morning delivery out of the San Francisco Bay area into Yakima, which is 24 hours better than anyone operating at the present time.

Q. If that schedule is maintained, it will be 24 hours faster?

A. Yes.

Q. Than any connection you have had in the past?

A. That is true.

176 Q. Is your company interested in through trailer service between the San Francisco Bay area and the Yakima and Wenatchee valleys?

A. Yes. That is sometimes a considerable advantage from a solicitation standpoint in obtaining business from shippers and receivers, as they like to have shipments handled as little as is possible.

Q. Have you been trying to secure such service for some time?

A. We have.

Q. Have you had any discussion with the Oregon-Nevada-California Fast Freight, in which it was stated that that company would join with you in through trailer service between the Yakima and Wenatchee valleys and the San Francisco Bay area?

A. Yes; we have had very definite plans.

Mr. FARRENS. Will counsel pardon a question: Will that only be in connection with perishable freight?

The WITNESS. That was not specified.

Mr. FARRENS. I am asking counsel.

Mr. ADAMS. The refrigerated service would be, of course, on perishable freight; but I imagine, in conjunction with other shipments, if the volume was sufficient, they would use the trailers and interchange trailers.

Mr. HOLBROOK. I didn't get that.

Mr. ADAMS. I say that, on other commodities, if the
177 volume was sufficient, interchange would be arranged.

Mr. FARRENS With the combined volume of the Oregon-Nevada-California Fast Freight and Consolidated at Medford, if they don't have that service now, is it logical to assume, if they split that up in the future, there will be any likelihood of such service? I understand the interchange at Medford only relates to perishables, and is it logical to assume that, with the traffic split up, the service is going to be extended?

Mr. BEROL. I think it would be better, as far as argument and conclusions are concerned, to reserve them for the brief.

By Mr. ADAMS:

Q. Did you investigate the possibility of connecting with other carriers?

A. Yes; I have at present several concurrences with carriers operating into that territory.

Q. Will you explain then why you feel that the service of this carrier is needed between San Francisco and Portland in conjunction with your operation?

A. We have concurrences at the present time with Colletti, the Pacific Truck Express and Cascade Fast Freight.

Q. Are those arrangements satisfactory?

A. No, they have not been, for all purposes.

Q. Will you explain your answer?

A. The Colletti service is primarily a fruit and produce
178 service north, and some fish, as well as fish in the southbound movement.

Q. Does fish mix well with the general commodities?

A. No; fish does not mix with the general commodities. In addition to that, the service has proven to be more or less irregular, and although we have had considerable tonnage, there have been occasions with shipments that were actually emergency shipments, when it has taken from five to six days from those points into our territory.

Q. All right, take the next carrier and tell us what the situation is.

A. The Cascade Freight, as I understand it, have purchased the Vognild operation, or they have tentatively purchased it, and, naturally, we are not receiving any freight from that concurrence at the present time. They are in actual competition with us between here and the Yakima and Wenatchese Valley points.

Q. Then, so far as your company is concerned, it considers its needs and convenience such that the Commission should issue to this company the authority which they seek to operate between Portland and San Francisco?

A. It would be of benefit to us.

Q. And to the shipping public which you serve?

A. Yes; to the shipping public, from the standpoint of service.

179 Mr. ADAMS. You may cross examine.

By Chairman TERRIL:

Q. Mr. Dawson, do you have any estimate or figures on the possible tonnage that you would have to turn over south-bound to the Oregon-Nevada-California Fast Freight, if this application is granted?

A. That is rather indefinite. So far as perishables are concerned, we have had in the past no particular movement of perishables because of the fact that they will take them out of refrigeration here. The refrigeration must be in one movement. So, we have not had any great tonnage to send south under those conditions. However, with interchange of refrigerated equipment, considerable tonnage could be obtained by our service under those conditions.

By Mr. ADAMS:

Q. When you say "considerable tonnage," what do you mean?

A. I would assume, during the season, variable tonnage from 50 to 75 tons, as a minimum, and up to 500 or 600 tons per month.

Q. Is that based upon your experience in transporting commodities between Yakima and the Wenatchee Valley communities and Portland?

A. That is based upon my experience in the knowledge of what is transported into the San Francisco Bay area.

By Chairman TERRIL:

Q. How is that moved now?

A. Most of it by rail refrigerator service; some of it is by
180 through truck loads on what is generally termed "wild cat" operations.

Q. Are you transporting commodities into Portland at the present time?

A. Our commodities from the Yakima Valley into Portland are more or less limited.

Q. Very little of that is destined to California?

A. At the present time; that is correct.

By Mr. ADAMS:

Q. When you say "present time," what do you mean?

A. On the concurrences we have had in the past we have had more.

Q. Has it been considerable?

A. Well, I have not the figures available on that, but I would say there has been some 20 to 25 tons per month during the season.

By Mr. BROWN:

Q. Is your interstate certificate limited in any way?

A. It is. We are not permitted to carry general commodities from those points to Portland; we have general commodities from Portland into those points.

Q. What commodities can you handle south-bound?

A. I don't have a copy of my permit here. It is primarily farm products, spray materials, and things of that character.

Mr. BROWN. You may cross-examine.

181 By Mr. ADAMS:

Q. Your shipments north-bound from Portland to the Yakima and Wenatchee valleys are general commodities?

A. That is true.

Q. And a proportion of those originate in the San Francisco Bay area?

A. Yes; quite a proportion.

Q. What is the nature of the Yakima Valley?

A. What do you mean?

Q. Is it a large producer of any particular type of commodity?

A. Yes.

Q. What is that commodity?

A. It is a large producer of farm commodities, primarily fruits and vegetables.

Q. And are they shipped, generally, throughout the Pacific Coast states?

A. Yes.

Q. Is the same statement true as to the Wenatchee Valley?

A. Yes; it is.

Q. They are one of the largest fruit and produce production areas in the United States?

A. That is true.

Mr. ADAMS. You may cross-examine.

Cross-examination by Mr. ELLIS:

182 Q. As I Understand it, your headquarters are at Yakima?

A. Yes.

Q. How long have you been in operation?

A. We have been in operation in the fruit and produce game for——

By Mr. ADAMS:

Q. As a motor carrier.

A. As a motor carrier, about twelve years.

By Mr. ELLIS (continuing):

Q. Your transportation operations were organized primarily to cater to the fruit-producing area of the Yakima Valley, were they not?

A. That is true; and also to give service into that valley.

Q. Your operation has been largely one of handling fruit and similar products out of the Yakima Valley, and hauling back to the producers in the valley such supplies as were used in connection with the fruit producing and packing operations?

A. That was the original intent, but, of course, the demand for service spread until it really required a general-commodity haul from here to the various customers in that territory.

Q. That was really the foundation of your operation, and that is the operation that you have conducted throughout the greater portion of the time you have been in the field, with the exception that you have, from time to time, added other commodities as the occasion seemed to offer?

183 A. That was the primary structure upon which it was built, but gradually demand grew for general commodities, and I branched out into that field.

Q. You have not been engaged to any substantial extent in the handling of products, fruits, or other products in the valley, that are destined to the California markets?

A. We have in the past and we have had more or less very sorry experiences.

Q. That is by reason of the fact that your operating rights were to Portland, and you had no through arrangements?

A. We had through arrangements with one or two carriers, but the service was not sufficiently fast and not sufficiently effcient to get there in time to avoid more or less loss.

Q. In the event this application should be granted, and you completed your arrangements with the applicant to transfer equipment, I assume you would transfer only trailer equipment at Portland?

A. It could be worked out as trailer equipment, or truck equipment; I assume the trailer transfer would be the most satisfactory for all concerned.

Q. From your experience as a truck operator, is it your opinion that an arrangement for the transfer of trailer equipment would be practical?

A. It has proven practical, from past experience.

Q. But, under your present operating rights, this interchange would largely be confined to the transportation of fruits

184 and other perishable products which are now covered by your permit, so far as south-bound movement is concerned?

A. If there was sufficient volume into the territory for interchange north, that could be arranged.

Q. But the interchange north would be limited by the scope of your operating rights?

A. We have general commodities north-bound; we have no restrictions north-bound.

Q. Have you any restrictions as to the territory you may serve between Portland on the one hand and Yakima on the other on north-bound shipments?

A. So far as way-points are concerned; yes. Our rights call for—they begin at Toppenish and then go into the Yakima Valley points.

Q. Are you familiar with the service rendered by the Pierce Auto Freight Lines from Portland to San Francisco?

A. I have been in the past.

Q. If the Pierce Auto Freight Lines is today operating a daily through service from Portland to San Francisco, and we are willing to enter into a joint arrangement with you, would that be of any advantage to you in the handling of the Yakima Valley shipments which you originate?

A. Yes; it would be an advantage if the service is definite enough and secure enough so that the perishables could be gotten into that territory without any chance of loss.

185 Q. You know what the Pierce Auto Freight Lines operations have been in the past, do you not?

A. Yes.

Q. And do you consider the Pierce operation a reliable one?

A. Yes; my experience with them, so far as Oregon operations are concerned, have been very satisfactory. However, my general understanding is that the operations into the California points are more or less irregular—once a week operation—and that there has been no actual through service operated into California points on a regular or frequent schedule.

Q. If there is now a daily, regular, through service, without interchange at Medford, would a connection with that line serve your present purposes or not, as you see them?

A. If it could be worked out satisfactorily as to interchange, with the same degree of service which we have been promised by the applicant here, I don't see why it could not work out; but, so far, we have no agreement to that effect.

Mr. ELLIS. That is all.

Cross-examination by Mr. FARRENS:

Q. You have through rates with the Pacific Truck Express?

A. Yes; we have.

Q. Did you ever approach the Pacific Truck Express on the question of interchanging equipment?

186 A. No; I have not personally. I think it was done by one of the members of the firm, but I have no definite proof of the fact.

Mr. ADAMS. Mr. Farrens, in response to that question, does the Pacific Truck Express operate any trailer equipment on its California run?

Mr. FARRENS. Whether it has or not in the past, I don't think that is any criterion of what it might do in the future.

Mr. ADAMS. Wasn't your question confined to the past operations?

Mr. FARRENS. I did ask him about the past. There would be nothing to prevent an operation of through trailers in connection with the Pacific Truck Express in the future, however.

By Mr. FARRENS:

Q. Isn't that a fact?

A. Not to my knowledge; if a satisfactory agreement could be reached, however, those things are——

Q. (Interposing.) Are you aware of the fact that the Interstate Commerce Commission has promulgated a basis for the interchange of equipment?

A. How is that?

Q. Are you aware of the fact that the Interstate Commerce Commission has promulgated a basis for the interchange of equipment?

A. Yes; I am.

187 Q. You are familiar with that decision?

A. Quite familiar with it; yes.

Q. Would it be a satisfactory basis of exchange between your company and another company at Portland?

A. I think it would.

Q. The speed of the Pacific Truck Express schedule between Portland and San Francisco is as great as those suggested to you by the applicant?

A. At the present time we are enjoying third-morning delivery to those points out of the Bay area. The service promised us by applicant would give us second-morning delivery from those points.

Q. When does the schedule of the Pacific Truck Express arrive in Portland from San Francisco?

A. Sometime in the afternoon, I believe.

Q. And when does yours leave Portland?

A. The schedule varies; from six to eight o'clock in the evening.

Q. You could, of course, coordinate your schedules with any connecting line with whom you might happen to make arrangements for interchange of equipment?

A. That is true.

Q. And you would?

A. That is true.

Q. Would you—strike that. What would you consider
188 reasonable coordination? That is, in the matter of elapsed time from the arrival of your connecting line from the south to the departure of your line for the northeast?

A. Well, a reasonable time would be long enough so that we would have sufficient notification to provide sufficient room for any tonnage.

Q. I mean, assuming that you are interchanging equipment.

A. Oh!

Q. If you are interchanging equipment, what would you regard as a reasonable lapse of time between the arrival time in Portland and the departure of your line from Portland?

A. Well, circumstances might vary on that. I would think that several hours' notification should be given in order to properly coordinate that service.

Q. Let us assume proper notification. If the notification has been given you, then, from the hour of arrival of the north-bound equipment at Portland, what would you regard as a reasonable lapse of time prior to the departure of your movement beyond?

A. That is another thing that is rather hard to answer directly. Circumstances would alter the case to some extent. I should say, from an hour and a half to two hours.

Q. From an hour and a half to two hours?

A. Yes.

Q. And anything in excess of two hours, unless there is
189 something unusual, you would regard that as an unnecessary delay or lay-over?

A. Yes; it would be.

Q. In your experience as a truckman, would that apply to any interchange that you might make at Yakima under similar circumstances?

A. Any interchange we have there causes very little delay; that would be ample time there.

Q. Is it true that you could interchange with less delay in a smaller town than you could in a town the size of Portland?

A. Yes; that is quite true.

Q. Was there some reason why you could not make a closer coordination with the departure time and the arrival time of the Pacific Truck Express in the past?

A. Well, our time of leaving here is, of course, convenient, necessarily, to the shippers in this particular district; and too early a leaving time would not be any advantage on the coordination, because the time of arrival in Yakima does not make any particular figure. The distance is so short that the time of arrival there is not necessarily important.

Q. Assuming that you make the trip at night?

A. Yes.

Q. Now, what time did this applicant say his schedule would arrive in Portland from the south?

A. I understand, about five or six o'clock in the evening;
190 possibly a little earlier than that.

Q. And you would go out about seven or eight o'clock?

A. Somewhere around that time.

Q. So the two hours spread that you spoke of would be sufficient?

A. It would be ample time.

Q. If it was two hours, you would not need any notification except when there was an exceptioned amount of interchange?

A. That is right; we wouldn't need any special notification.

Q. Did this applicant suggest its willingness to interchange equipment on other than perishable freight?

A. That was not gone into, but it was my understanding, if a sufficient volume was obtained, it could be worked out.

Q. Your volume of interchange at Portland with this applicant could not be expected to be as great as the volume of interchange is now, of course, at Medford, between this applicant and the Consolidated Freightways?

A. No; because our territory is smaller.

Q. Can you give us any idea of the ratio of interchange that you would expect to have as compared with that which is now being effected by the two companies at Medford?

A. That is rather hard to determine.

Mr. ADAMS. Just a minute. Do you know anything about the volume that is interchanged there?

The WITNESS. I don't know what volume is interchanged
191 at Medford.

By Mr. FARRENS:

Q. I think the volume is about 110,000 pounds.

A. Per day?

Q. Yes.

A. Ours would be more or less a figure which could be developed. The fact is, we are serving numerous customers in the valley to some extent. We have been serving them to a limited extent be-

cause of the fact we have not had such arrangements. The volume of business could be developed considerably if we had those arrangements.

Q. But it would not approach that figure?

A. Oh, no; it would not approach that figure, because our territory is much smaller.

Q. In your opinion, would it approach half that figure?

A. I doubt it very much. It probably could be developed to a point of 20% to 25% of that figure.

Q. As a practical truckman, is it possible to exchange trucks for the handling of perishables?

A. Yes; certainly it is.

Q. It is being done, is it not?

A. Yes.

Q. Well, if it is practical to exchange trucks for the handling of perishable goods, is there any reason why exchange could not be effected in the handling of nonperishable goods, if the volume is available?

192 A. There is no reason at all why it could not be done.

Q. Is there any reason, if applicant is willing to effect an interchange with perishable goods—is there any reason why he should not be willing to make the same exchange at Medford?

A. That would depend upon the tonnage.

Q. As a practical truckman, you would agree that there would be far more opportunity to interchange equipment in the handling of perishable goods at the present Medford interchange than with your line at Portland?

A. There probably would be.

Cross-examination by Mr. HEDGES:

Q. Isn't it a fact that most of the south-bound tonnage your company moves from the Yakima Valley to Portland at the present time moves from your own place of business into your own place of business at Portland?

A. No; I would not say the majority. There is a considerable tonnage that moves into our place of business out of the valley points.

Q. What other business is Forney & Sons engaged in, besides transportation?

A. Produce.

Q. Wholesale and retail in Portland?

A. Wholesale, primarily.

Q. And the buying and grading in the Yakima Valley?

193 A. That is true.

Q. Have you ever offered any of this potential tonnage from the Yakima Valley to the Cascade Fast Freight that they have refused to handle?

A. We have never offered any tonnage that they refused to handle, but we have had some unhappy experiences on what we have turned over.

Q. When?

A. Last season.

Q. What time during last season?

A. About October of last year; I don't have the dates available.

Q. Have you had any since the first of this year?

A. Not to my knowledge.

Q. Isn't the largest percentage, in fact, almost all the produce, moving from the Yakima Valley to the California points being hauled at the present time by the so-called exempt carriers?

A. I would not be a judge of the percentage there; there is some percentage being moved by rail refrigeration.

Q. I mean that which moves by truck?

A. I couldn't answer that question. I don't know just what the percentage would be.

Q. Where are you located?

194 A. Our headquarters are in Yakima. I spend a part of my time there, a part of my time in Seattle, and a part of my time in Portland.

Q. You would be familiar with the amount of traffic originating in Yakima, if anybody in your company would?

A. To a certain extent.

Q. Do you tell me that it is not a fact that practically all the tonnage that is now moving is not moving by the so-called exempt carriers?

A. I don't know.

Q. Isn't it a fact that the tonnage moved by the so-called exempt carriers is moving on a rate basis entirely? That is, they have lower rates than any common carriers moving out of there?

A. I am not too familiar with the rate structure. There have several changes made in it in the past year or 18 months.

Q. What do you mean by changes?

A. Well, the rates have been cut more or less, and the rate at the present time is not too remunerative a rate; but there is no definite theory that the rate is going to remain as it is at the present time.

Q. But it is a low rate at the present time?

A. That is true.

Mr. HEDGES. That is all.

Redirect examination by Mr. ADAMS:

195 Q. In reference to the question asked you by the Pierce Auto Freight Lines. Assuming that the Pierce Auto Freight Lines does all that counsel for that line indicates that they

would do, would you still say there is a need for the services of this applicant, so far as your operations are concerned?

A. Well, I believe it would be a definite benefit to our operations to have this applicant receive this operating right.

Q. Did Pierce ever solicit you or try to make arrangements with you?

A. Not to my knowledge; not me personally.

Q. Not to your knowledge, or any member of your firm?

A. That is right. Not to my knowledge.

Q. Do you know who presently owns the Pacific Truck Express?

A. Yes; I do.

Q. Having that knowledge, do you think that in any way would change the picture from what it was when it was in the hands of private parties?

A. Since I have been in Portland the past week. I have endeavored to make contacts in order to assure myself of the continuance of any relations which we have had with the Pacific Truck in the past. I have not been able to receive any satisfactory answer one way or the other.

Mr. FARRENS. I didn't get the answer.

The WITNESS. I said, since I have been in Portland, I
196 have made numerous inquiries in regard to finding out what the status of the Pacific Truck Express is going to be in regard to a continuance of the service and the concurrence which we have had with them in the past. However, I have not been able to get a satisfactory answer from anyone concerned. And my previous experience with the rails has been that no rail carrier has even concurred or cooperated to any extent with a motor carrier who is operating in direct competition with any other rail carrier in a particular territory; so I have no assurance.

Q. A question was asked you, and you gave an answer predicated upon the knowledge of the transfer situation at Medford. As a practical truck operating man, how long have you been in the motor truck business?

A. Motor transportation?

Q. Yes.

A. I have been associated with it one way or another for about 20 years.

Q. As a practical truckman with practical experience, do you think it would be a practical thing for motor carriers to interchange at some small point en route, and leave their trucks that hauled the trailers up, sitting around at that point?

A. No. That would not be practical, unless there was a different interchange, where the motorized equipment could be

197 kept rolling, because if the motorized equipment is not kept rolling it is not making any money.

Q. Then you would modify your statement that it would be just as economical to make interchange at Medford?

A. I don't know as I made any statement as to that.

Q. Would you agree to modify your answer to the effect that perhaps it might be possible to make that interchange at Medford as economically as at Portland?

A. I still don't just understand it.

Mr. FARRENS. I don't either. I didn't ask him any such question. I asked him if it was a little easier to make an interchange at a smaller community than at a large one.

Mr. ADAMS. All right.

By Mr. ADAMS:

Q. Do you know what the service of the Pacific Truck Express south-bound today is?

A. South-bound?

Q. South-bound or north-bound? Do you know what the service of the Pacific Truck Express is, or has been to date?

A. It has been practically all trucks and trailers.

Q. Do you mean semitrailers? You mean where the carrying part of the vehicle is immediately behind the cab?

A. That is true.

Q. Six-wheel semitrailers?

A. That is my general knowledge of the greater amount of their equipment.

198 Q. Having that knowledge, would it have been possible for you to interchange that equipment with yours?

A. I cannot answer that question intelligently, because a lot would depend on the uniformity of that equipment, whether or not the connections were uniform, and so on; those details would have to be worked out.

Mr. ADAMS. That is all.

Re-cross-examination by Mr. FARRENS:

Q. You made some statement with reference to the Pacific Truck Express and of your inability to get in touch with the proper officials with reference to a concurrence, or something of that kind.

A. That is correct.

Q. Do you know of any official of the Pacific Truck Express, of the present management, that should have been able to give you the answer? If you do, I would like to know who they are.

A. That is my problem, trying to find somebody there with the Pacific Truck Express, or the Southern Pacific Company, that could give me some idea of what might happen. I was trying to protect myself for the future.

Q. What you are trying to protect is your concurrence?

A. Yes; that is true.

Q. You did not succeed in finding anybody who could tell you whether your concurrence would be continued or not?

A. That is right.

199 Mr. FARRENS. You are in the same position I am.

Mr. ADAMS. Thank you very much.

(Witness excused.)

Chairman TERRIL. We will adjourn until 9:00 o'clock tomorrow morning.

(At 4:55 o'clock p. m., July 11, 1940, hearing adjourned until 9:00 o'clock a. m., July 12, 1940.)

200–202 Junior BALLROOM, MULTNOMAH HOTEL,
Portland, Oregon, July 12, 1940.

BEFORE JOINT BOARD No. 5

Hearing resumed at 9:00 o'clock a. m.

Appearances: As heretofore noted with the addition of the following:

Albert E. Stephan, 358 United States Bank Building, Portland, Oregon, appearing for O. J. Mitchell, doing business as Mitchell Bros. Truck Line and Pete Lubetich, doing business as Pacific Refrigerated Motor Line, intervening protestants.

PROCEEDINGS

Chairman TERRIL. Let us be in order, gentlemen.

Mr. ADAMS. I will call Mr. Bismark.

CARL BISMARK was sworn and testified as follows:

Mr. STEPHAN. I would like to enter my written appearance, together with my oral appearance.

Albert E. Stephan, of Ridgeway, Johnson, Kendall & Stephan, 358 United States Bank Building, Portland, Oregon. I am admitted to practice before the Commission. I am appearing on behalf of O. J. Mitchell, doing business as Mitchell Bros. Truck Line, and Pete Lubetich, doing business as Pacific Re-

203 frigerated Motor Line, intervening protestants, both of them.

I would like to file at this time a motion similar to the motion which was filed in Docket No. MC 42487, Subs. 15, 18, 19, and 20. I will have that ready within the next hour.

Chairman TERRIL. Very well. The procedure will be the same as in the preceding case.

Mr. STEPHAN. Thank you.

Direct examination by Mr. ADAMS:

Q. Will you state your name?

A. Carl Bismark.

Q. And you reside at Medford, Oregon?

A. Yes.

Q. What is your business or occupation?

A. I am in the tire business.

Q. Does your company ship between Portland, Oregon, and San Francisco, California, and points intermediate thereto?

A. Yes.

Q. Will you name such points?

A. Well, we ship from San Francisco to Crescent City, Grants Pass, Glendale, Chetko, and Roseburg, occasionally.

Q. How about Wolf Creek?

A. And Wolf Creek.

Q. Do your shipments originate at San Francisco?

A. Yes.

Q. And terminate at the points named?

204 A. Yes.

Q. What is your monthly total of shipments destined to or originating at such points?

A. That is kind of hard to say; I would say about 10,000 pounds a month.

Q. Of the 10,000 pounds a month, how much goes to Medford?

A. You mean, how much stays there?

Q. Yes.

A. I would say that about half of it.

Q. And the rest of it goes to the points which you have named, Crescent City, Grants Pass, Glendale, Chetko, Roseburg, and Wolf Creek?

A. Yes; and perhaps some other points.

Q. How do you ship your shipments?

A. We have been shipping via the Oregon-Nevada-California Fast Freight.

Q. You ship by truck, do you?

A. Yes.

Q. Do you know anything about the facilities and services of the Oregon-Nevada-California Fast Freight?

A. It has been very satisfactory, so far as we are concerned.

Q. Do you transport your shipments from San Francisco to Medford?

A. Yes.

Q. And that has been done by means of the Oregon-

205 Nevada-California Fast Freight?

A. Yes.

Q. Have they been doing so for years?

A. Yes.

Q. How are your shipments handled above Medford?

A. You mean north?

Q. Yes; north of Medford?

A. We ship by the Pierce Auto Freight and Consolidated.

Q. Interchanging at Medford with the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. You are here supporting this application, Mr. Bismark?

A. Yes; I am.

Q. By the way, did you make any investigation to ascertain what motor carrier service was available to you?

A. Yes; I have.

Q. And you found what service was available?

A. Yes, sir.

Q. Was that by letter addressed to the Interstate Commerce Commission?

A. Yes; it was; there are four lines: Consolidated, Pierce, Pacific Truck Express, and Southern Pacific.

Q. That is the Southern Pacific Railroad?

A. Yes.

Q. Will you state why you are here supporting this application?

206 A. Well, I thing there is room for more transportation; there have been delays in the past.

Q. By reason of interchange?

A. By reason of interchange, I suppose.

Q. Have you utilized the services of the Pacific Truck Express?

A. I have not for a couple of years.

Q. Why did you discontinue your patronage of them?

A. Very unreliable.

Q. Did you have any knowledge concerning Pierce running through service between points north of Medford to San Francisco?

A. I understand that he runs a truck to Frisco; yes.

Q. Do you know how often?

A. I wouldn't say; I think it is once or twice a week.

Q. Assuming that Pierce was running, or was going to put on a daily schedule, would that meet your needs?

A. Would who?

Q. That Pierce was?

A. Our service south has always been satisfactory, and I believe I would like to see the same service north.

Q. When you say south, you mean the services of the Oregon-Nevada-California Fast Freight, do you?

A. Yes.

Q. Do you feel there is room in the picture for more
207 carriers than are moving from north of Medford south?

A. Yes.

Q. Why do you say that, Mr. Bismark?

A. Well, we have had delays in shipments in the past, and I think it is due to, sometimes, more freight than they can handle. Sometimes there are delays which will occur on small shipments.

Chairman TERRIL. Off the record.

(Discussion outside the record.)

By Mr. ADAMS:

Q. You feel that the existing facilities are insufficient; is that correct?

A. Yes; I do.

Q. You are testifying to the fact that on some occasions your shipments were held over, and I understood you to attribute that to the thought that there was too much tonnage for the service available; is that correct?

A. It is my belief; that is my belief.

Q. Do you know anything about the reliability of the applicant, the Oregon-Nevada-California Fast Freight?

A. We have done business with them for the last three or four years, and it has been very satisfactory.

Q. And you would like to have their services extended north?

A. I think it would be a good thing.

Q. Your own company's convenience and necessity is such as to require that they be permitted to serve between the points
208 that you ship between? Is that correct?

A. Yes.

Mr. ADAMS. You may cross-examine.

Cross-examination by Mr. ROBERTS:

Q. You are engaged in what type of tire business?

A. We sell both new tires and retread tires.

Q. You retread?

A. Yes.

Q. What type of retreading do you do?

A. Hawkinson.

Q. I don't know exactly how you ship into the intermediate points north of Medford. Do you mean that you have tires which come into your place of business, and then you retread them and ship them north?

A. No.

Q. What do you mean?

A. We sell new tires, General Tires, and they are shipped out of San Francisco direct to the customer, say, at Wolf Creek, or Grants Pass, or some of those other points.

Q. In other words, you give your order into San Francisco or the Bay region, wherever the distributing point is?

A. We give the order into Seattle, but about half of the time they come out of San Francisco.

Q. About half of the time they come out of San Fran-
209 cisco or the Bay region, and are shipped north into these particular communities?

A. Yes, sir.

Q. Now, you have done business in the past with the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. For how many years, approximately, Mr. Bismark?

A. Oh, I would say for the last three or four years.

Q. And you have found their services entirely satisfactory?

A. Yes; I have.

Q. The service which they render to you meets your requirements and needs in that business, in every particular? Is that correct?

A. Yes; it does.

Q. There is no reason, so far as you are personally concerned, or your business is concerned, to have any additional service, for the type of business which they perform; or, rather, for the type of service they perform?

Mr. ADAMS. Will you make it clear whether you are referring to shipments north of San Francisco?

Mr. ROBERTS. I think the question is proper.

Chairman TERRIL. The question is proper.

Mr. ADAMS. The question is proper, if he understands it.

Exam. KEPHART. If he doesn't understand it, he can say so.

A. I understand you to mean that my dealings with the
210 Oregon-Nevada-California Fast Freight have been between San Francisco and Medford?

By Mr. ROBERTS:

Q. Yes; I am talking about San Francisco and Medford.

A. All right.

Q. Have you any objection or criticism as to the service which you receive further north?

A. We have had delays in the past.

Q. Those delays have been occasioned by what? First, have they occasioned any difficulty to you?

A. Oh, yes; considerable.

Q. They have?

A. Yes.

Q. In what maner?

A. Tires run into a lot of money, and being a small concern, we don't stock a whole lot of tires; and if a man orders something which we don't have any stock of, usually he has his truck on the jack, and he needs it pretty quick; and if we promise it the next day, it has got to be there or it hurts the business.

Q. You promise him that the next day from your place of business?

A. From San Francisco or Portland.

Q. You would not promise it the next day for shipments into Wolf Creek, would you?

211 A. Not to Roseburg.

Q. You would not Wolf Creek, would you? From San Francisco we are talking about.

A. I couldn't say offhand. Now, I don't know just exactly what the shipments are. We get it into Medford early in the next morning from San Francisco, and I think we can get it to Wolf Creek the next afternoon.

Q. In your shipments to Wolf Creek or Roseburg, or points intermediate to them and Medford, do you ship out of San Francisco or Portland?

A. Out of both San Francisco and Portland.

Q. Referring to the Wolf Creek shipments, wouldn't you order those out of Portland?

A. We do, but we can't get the merchandise; they have a bigger stock in San Francisco. Most of the time it comes out of San Francisco.

Q. Do you mean that the ordinary tires that you need for your service, you can't get them out of Portland?

A. Most of the time.

Q. In fact, all the time?

A. No; just most of the time.

Q. Now, how much business, approximately, do you do relative to these shipments which you have occasion to have out of San Francisco to Roseburg and intermediate points to Medford?

A. I don't understand what you mean.

212 Mr. ADAMS. How much volume?

Mr. ROBERTS. How much volume?

A. Out of San Francisco?

By Mr. ROBERTS:

Q. Into Roseburg, to intermediate points; to Roseburg and intermediate points to Medford.

A. Grants Pass?

Q. Yes.
A. We have the biggest part into Grants Pass.
Q. That is, tires that you get out of San Francisco?
A. Yes.
Q. Do they go through direct?
A. Yes.
Q. All of these shipments?
A. Most of the time.
Q. You have used the facilities of the Pierce Auto Freight Lines?
A. From the south?
Q. From the north?
A. Yes; we have.
Q. Do you find that service entirely satisfactory?
A. I don't think of any particular delay with Pierce; no.
Q. As a matter of fact, you have found their services to be entirely satisfactory for your needs and requirements, have you not?
A. Well, I couldn't say that exactly.
213 Q. In what particular have they been deficient?
A. There have been times that we could not get shipments out on a truck; and it might have to lay over. It has been many times since that has happened.
Q. What do you mean?
A. I mean, it has happened many times.
Q. Within recent years?
A. Well, truthfully, I have not shipped much by Pierce the last year and a half.
Q. You have been shipping mostly by Consolidated and the Oregon-Nevada-California?
A. Yes.
Q. Do you sell your products to the Oregon-Nevada-California Fast Freight?
A. No. Not a whole lot; we have sold them a few recaps; I don't know how much; very little.
Q. Have the services which you have received in the past from Pierce, which, as I understand it, have been satisfactory to you——
A. (Interposing.) Yes.
Q. If those services were continued in the southerly direction, would you have occasion to use that service?
A. South?
Q. Yes.
A. Not unless I could not get the service we have been
214 getting in the past. We have dealt with Pierce in the north, before he went south, and we have dealt with the Oregon-Nevada-California Fast Freight south.

Q. I am talking about this: If you had a daily through service by Pierce from San Francisco points to Medford and north, would you use that service?

A. I think I would use the services that I felt I could get the best service on.

Q. You would use the service that would give you the best results?

A. Yes.

Q. If there was no delay in Medford, and their service south was of the same satisfactory kind that you have found the service of Pierce to be in the past?

A. Well, I don't know; I probably would, if I found fault with the people I did business with in the past; I don't have any reason to change now.

Q. That is what I am getting at. Your services in the past, which you have received, have been entirely satisfactory, you say?

A. Yes.

Q. If the service south by Pierce was satisfactory, would you use that service?

A. The service I get from the south?

Q. I am talking about the service of Pierce Auto Freight
215 Lines, which it has inaugurated from the south daily to north of Medford, and intermediate points; if there was no delay in those shipments, that is what I am talking about.

A. You have got me a little bit mixed up. I don't know where I am at now.

Q. All right, I will restate it. You say the only reason you have any criticism of the service is the delay occasioned at Medford?

A. From the south?

Q. From the south?

A. Yes.

Q. I am saying that, if the service inaugurated by Pierce was a daily service, and a through service north, wouldn't that meet your needs and requirements?

A. Well, I don't know whether it would or not. I have already stated that the service I have been getting in the past has been satisfactory from the south to Medford, and that I have had satisfactory service out of Pierce from the north.

Q. You have no reason to doubt but what he would give satisfactory service from the south?

A. I would prefer to deal with those I have been dealing with.

Exam. KEPHART. Can't you answer the question just as he asked it?

The WITNESS. Just what is the question?

Mr. BROWN. Will the reporter read it, please?

216 (Question read.)

A. No; I have none.

By Mr. ROBERTS:

Q. And if that satisfactory service were given, it would meet your needs and requirements; isn't that true?

A. Given by Pierce?

Q. Yes.

A. It probably would if I used it; I don't know.

Q. If you did use it; it would meet your needs and requirements?

A. I think I just answered it.

Q. In other words, it is optional with you whether you want to use it or not?

A. Oh, yes.

Q. If it were available to you, it would meet your requirements if you desired to use it?

A. I think it would.

Mr. ROBERTS. That is all.

Mr. HEDGES. No questions.

Cross-examination by Mr. FARRENS:

Q. I thought I heard you say that you patronized the Pacific Truck Express.

A. Not for a year or more, I don't think.

Q. Are you having any trouble getting deliveries over the route of this applicant from San Francisco to Medford?

217 A. No; I am not.

Q. Are you having any trouble getting deliveries from Portland?

A. I have delays occasionally; yes.

Q. You are patronizing what company from Portland?

A. It has been mostly the Consolidated.

Q. Now, have the troubles which you have had in respect to delays from Portland been of sufficient importance to you to cause you to investigate the services of any competing truck lines?

A. Yes.

Q. What investigation did you make?

A. I wrote the Interstate Commerce Commission.

Q. And what did you inquire of the Interstate Commerce Commission?

A. I asked what service was available from these points.

Q. The points which you have mentioned?

A. Yes.

Q. Now, did the Interstate Commerce Commission tell you that the Pacific Truck Express operated a night schedule out of Portland into Medford?

A. A night schedule?

Q. A leaving schedule from Portland that arrived at Medford the next morning?

A. I don't remember off-hand; I know they said that they
218 operated a schedule.

Q. Did you make any inquiry to ascertain what that schedule was, from any source?

A. No; I did not.

Q. Now, what service are you getting from this applicant to Medford from San Francisco?

A. What delivery?

Q. Yes.

A. If we order today, we will get it the next morning.

Q. In other words, you are representing that you are getting first morning delivery?

A. Yes.

Q. Is that what you are representing to the Commission?

A. Yes.

Q. Isn't it a fact that the major portion of the time the northbound arrivals of the applicant's equipment do not occur until the afternoon of the next day or later?

Mr. Adams. If you know.

A. No; I don't believe so. I can't remember of any time they would be anywhere near that late.

By Mr. FARRENS:

Q. You are confident that practically all of your deliveries occur in the morning?

A. Yes; that is the way it has happened with me.

Q. Are you sure it is the first morning after shipment from San Francisco?

219 A. As near as I can remember; I don't remember of having any delay.

Q. Have you used the overnight rail service of the Southern Pacific from San Francisco to Medford?

A. No; I have not.

Q. Are you aware of the fact that freight received at San Francisco up to 5:45 in the evening arrives at Medford at 10:48 the next morning?

A. I believe I am; I understand that they arrive there sometime in the forenoon; not any special time that I know; I couldn't say as to that.

Q. Now, if under the acquisition of the Pacific Truck Express by the Southern Pacific that freight that arrives at 10:48 in the morning is picked up by the Pacific Truck Express and is taken to the points of Grants Pass and Roseburg and way points, that would beat any delivery that you could get by truck to those points?

A. Would beat any what?

Q. Any delivery that you could get by truck.

A. Would beat any delivery?

Q. Yes.

A. No; I don't think so.

Q. I am talking about delivery from San Francisco.

A. Shipped by 5:00 o'clock in the evening from San Francisco?

Q. From San Francisco at 5:45 in the evening.

220 A. Arriving at 10:45 in the morning?

Q. Arriving at 10:48 in the morning.

A. That would not beat the service we are getting.

By Exam. KEPHART:

Q. What service are you getting now?

A. Our shipments get in there——

Q. What time do they leave San Francisco?

A. That I couldn't say.

Mr. ADAMS. Maybe Mr. Gritsch could answer that.

Exam. KEPHART. He says it doesn't beat the service he is getting.

Mr. ADAMS. He means on the time of arrival.

Exam. KEPHART. It might leave two days before.

The WITNESS. I know it leaves the night before; I couldn't say what the deadline is for the last pick-up.

By Exam. KEPHART:

Q. What is the delivery the next morning by truck service?

A. Between 8:00 and 9:00 o'clock.

Mr. FARRENS. I will ask counsel for the applicant to advise the Commission whether they have any schedules leaving San Francisco the night before which come into Medford about 8:00 or 9:00 o'clock in the morning, or so as to make the delivery 8:00 or 9:00 o'clock in the morning.

Mr. GRITSCH. I can tell you.

Mr. BEROL. I think they do have. However, if you want a complete answer, you had better get it from Mr. Gritsch. I think the truck leaves at 5:00 o'clock, and then there are

221 some trucks leaving after that at hourly intervals.

Mr. FARRENS. I think it would be well to show the hours of departure and arrival, so that we would have something defi-

nite before the Board, rather than the speculation of the witnesses.

Mr. ROBERTS. Are you going to submit schedules of arrival?

Mr. ADAMS. Yes.

Mr. ROBERTS. Before this case is finished?

Mr. ADAMS. Yes.

Mr. FARRENS. I would like to know the facts.

Mr. BROWN. We should know the facts.

Mr. FARRENS. I don't want to get into any long discussions with this witness or any other witness on matters which could be given more definitely. It is difficult to take these matters up with each witness and get their version, when they are not in possession of the definite facts.

Chairman TERRIL. I think the applicant should make a schedule, so that the witnesses could be properly examined.

Mr. ADAMS. We certainly have not refused to do so.

Mr. FARRENS. I don't think this matter should be handled by beating around the bush. I think the applicant should put that schedule in so that we would know how to properly examine the witnesses.

Mr. ADAMS. We certainly are not beating around the bush.
222 We are willing to give you that information at any time.

Mr. BEROL. Let us save time and have it produced as soon as possible.

Mr. FARRENS. I wonder if it couldn't be done at this time.

Mr. ADAMS. I am going to talk to Mr. Gritsch.

Mr. FARRENS. I think that should be settled now.

Mr. ADAMS. It will take about ten minutes, and, we don't want to delay the proceedings.

Mr. FARRENS. It will take ten minutes one time as well as another. I think we should have a recess now.

Chairman TERRIL. All right, a ten-minute.

(Recess.)

Chairman TERRIL. Let us be in order, gentlemen.

Mr. BEROL. I understand some question has arisen regarding the time in transit and the schedules, and I would like to put Mr. Gritsch on for a few minutes to clear that up.

Chairman TERRIL. Very well. The witness has been sworn previously.

J. A. GRITSCH, previously sworn, testified as follows:

Direct examination by Mr. BEROL:

Q. Now, Mr. Gritsch, with respect to the schedules leaving San Francisco for the north, what is your practice at the present time,

223 first, in reference to the schedules leaving; they vary between what hours?

A. They vary from 3:00 o'clock in the afternoon until 7:00 or 7:30 in the evening.

Q. Is it your proposal, if this application is granted, that nightly schedules will operate on approximately the same basis?

A. That is correct.

Q. I believe you already testified that time in transit between San Francisco and Portland will be between 25 and 28 hours?

A. Yes.

Q. Will you explain what you mean by between 25 and 28 hours?

A. 25 hours is the actual running time, but I give three hours more to be safe.

Q. By running time, do you mean the elapsed time between San Francisco and Portland?

A. Yes.

Q. And the three hours additional is to provide elasticity?

A. That is correct.

Q. That is taken into consideration to provide for unexpected delays en route?

A. That is correct.

Exam. KEPHART. Due to variations in traffic conditions?

The WITNESS. That is correct.

By Mr. BEROL:

224 Q. You testified that there will be an interchange of equipment at the Oregon-California Border.

A. A conversion of equipment.

Q. Is that occasioned by reason of the fact that a larger gross weight is permitted for a truck and trailer under the laws of California than under the laws of the State of Oregon?

A. Yes, sir.

Q. What time in transit do you expect will transpire between San Francisco and the Oregon-California border?

A. 14 hours.

Q. And that is the usual time that you anticipate will be taken en route?

A. Yes.

Q. 14 hours?

A. That is correct.

Q. That would mean, would it not, that your equipment would arrive at the border anywheres between 5:00 and 9:00 o'clock in the morning?

A. That is correct.

Q. Now, when do you expect the converted equipment will arrive at Medford? In other words, what is the operating time in transit between the border and Medford?

A. One hour.

By Chairman TERRIL:

Q. Will that include the time necessary for interchange of equipment?

A. Yes. Might I explain: I operate 6-wheel trucks and 6-
225 wheel trailers. The front part of the trailer, what we call the dolly, it takes about a minute to run a jack under it and detach it and make a semitrailer out of it.

Q. How long do you expect that conversion will take?

A. About ten minutes.

Q. So you will arrive in Medford between 6:00 and 10:00 o'clock in the morning?

A. That is correct.

Q. On the various schedules?

A. Yes.

Q. As to the traffic or the equipment destined north of Medford, will there be any occasion for any stop or delay at Medford?

A. There will not.

Q. What do you anticipate will be the time in transit between Medford and Grants Pass?

A. Approximately one hour.

Q. So you will arrive in Grants Pass between 7:00 o'clock and 11:00 o'clock in the morning?

A. That is correct.

Q. What is the time in transit between Grants Pass and Roseburg?

A. A maximum of three hours.

Q. So you will arrive in Roseburg, at the latest, between 10:00 o'clock in the morning and 2:00 p. m.?

226 A. That is correct.

Q. What is the time in transit between Roseburg and Eugene?

A. About three hours.

Q. So you will arrive in Eugene between 1:00 and 5:00 p. m.; is that correct?

A. Yes.

Q. What is the normal time in transit between Eugene and Portland?

A. About three and one-half hours.

Q. So about three and one-half hours will put you in Portland about, or between 4:30 and 8:30 p. m.?

A. Yes.

Q. That is the time that you anticipate would be made in operating a normal schedule?

A. Yes.

Q. However, Mr. Gritsch, you have allowed the extra time over and above the 25 hours in order to meet unexpected traffic conditions and other delays that might occur?

A. That is right.

Q. You expect to, also, use an alternate route, United States Highway 97 and State Highway 58 between Klamath Falls and Goshen; do you not?

A. Yes.

Q. As to those occasions when you use this highway as an alternate route, would that not cut your transit time as to

227 points Eugene and north?

A. I think it will. The highway is not available for use now at the present time, and I can't say exactly what time it will be, but I understand it is to be a faster highway than 99.

Q. Than United States Highway 99?

A. That is right.

Exam. KEPHART. May I ask: Do you have rights in California that will allow yo to go into Oregon from California, operating on the Weed Cut-Off?

The WITNESS. Yes.

By Mr. BEROL:

Q. Now, respecting your schedule from Portland to the Bay area, do you expect your time elapsed will be approximately the same as the north-bound time?

A. Yes.

Q. As to the morning schedule, do you anticipate the time will be about the same as the evening schedule?

A. Yes.

Q. And as to the morning schedule departing from Portland, destined for Bay points, do you anticipate the time in transit will be the same?

A. Yes.

Exam. KEPHART. Would you mind developing the present delivery time of traffic destined to Medford?

Mr. BEROL. I will be glad to.

228 By Mr. BEROL:

Q. Now, at the present time you indicated that the departure from San Francisco is between 3:30 and 7:30 in the evening; is that correct?

A. That is right.

Q. And you have indicated that the running time to the border is approximately 14 hours.

A. Yes.

Mr. FARRENS. My notes show that he said from 3:30 p. m. to 7:00 p. m. and not from 3:30 to 7:30 p. m.

By Mr. BEROL:

Q. Is it correct that it is from 3:00 to 7:00 rather than from 3:30 to 7:30?

A. No; I wouldn't say that it is. The last schedule leaves San Francisco about 7:30 in the evening, from 3:00 to 7:30.

Q. As a matter of fact, do your schedules leave exactly on the hour like a passenger train?

A. No.

Exam. KEPHART. In other words, a half an hour variation in leaving time is quite frequent?

The WITNESS. At times we have schedules leaving there at 10:00 o'clock in the morning. In other words, when they get a load, we send them ahead.

By Mr. BEROL:

Q. As a matter of fact, is the departure time that you have mentioned the general situation, the departure times, rather?

A. I think so. It is an average condition which we have
229 had for six or seven years.

Q. And is it a situation depending on when traffic is available?

A. Yes.

Q. Is it a fact that schedules might leave earlier than 3:00 or 3:30, as you have indicated?

A. Yes.

Q. Do they ever leave later than 7:30?

A. Sometimes; I would say yes.

Q. Would that be frequent or very infrequent?

A. It would be very infrequent.

Q. And there is a reason for that, because freight is generally available to you by 6:00 or 6:30 in the evening; is that correct?

A. That is right. I might say we have conditions there where we can't get freight until 8:00 or 9:00 o'clock at night, if it happens to be a load.

Q. You mean, where you are not able to get it from the shippers?

A. Yes. The drivers go out to get a load, and it may take us two hours to get the load.

Q. So your schedules are not fixed on the hour, but are flexible, depending upon your ability to obtain a load of freight?

A. Yes.

Q. Now, the time in transit between San Francisco and
230 the border, is that approximately 14 hours?

A. Yes.

Q. Do you have any delay at the border by reason of the change of any equipment, or by reason of handling your traffic at the border?

A. Not that I have had any complaint or know anything about.

Q. What I mean is this; the truck and trailer leaving San Francisco for Medford, do they both continue to move on?

A. The truck does, but the trailer is converted into a semi-trailer at the Oregon line.

Q. The truck goes straight through to Medford?

A. Yes.

Q. And that takes about 15 hours from San Francisco to Medford?

A. Yes.

Q. With respect to the trailer, is that immediately pulled on into Medford, or is there some delay at the border?

A. It is immediately pulled into Medford. When the driver gets to Yreka, he calls Medford, and the tractor comes out to meet him.

Q. So that, normally, subject to the fluctuations in schedules, about which you have testified, does your equipment at the present time normally arrive in Medford between the hours of 6:00 and 10:00 a. m.?

A. On an average. Sometimes some come in there at
231 11:00 or 11:30. There is quite a variation there. As an average, I would say that is correct.

Chairman TERRIL. May I ask a question?

Mr. BEROL. Of course.

By Chairman TERRIL:

Q. Do you make any distinction as to shipments that are destined to Medford rather than ones that go on through on the line-haul into Portland?

A. At the present time?

Q. Yes; at the present time.

A. Well, at the present time we have through trailers. The freight is loaded on a trailer for Portland, or there may be a trailer for Seattle. When we get into Medford, that would be turned over to the Consolidated.

Q. What I want to know: For local delivery into Medford, do you load that onto one trailer or one equipment, or is it scattered in the four or five schedules?

A. At the present time, it may be four or five.

By Exam. KEPHART:

Q. So that you unload that first before the trailer goes on?

Mr. BEROLE. I think there is a confusion there between the local freight and the through freight; I dont believe of you are talking about the same thing. If I may, I will try to straighten it out.

By Mr. BEROL:

Q. As to the trailer, that goes through to either Seattle or
232 Portland without the interchange, or without change of lading at Medford, does it not? In other words, does that trailer contain in it any local freight for Medford?

A. No.

Q. Now, is it that trailer that you turn over intact to the Consolidated at Medford?

A. Yes.

Q. And then what do they do with that trailer? Do they unload any freight from it at Medford at all?

A. No.

Q. Now, as to the freight that is destined locally to Medford, is that the freight that may be on any one of three or four or five pieces of equipment that you have talked about?

A. Yes.

Q. But none of the freight on the through trailer that is destined to Portland or Seattle is freight that is destined locally to Medford?

A. No.

By Chairman TERRIL:

Q. Then the earliest possible arrival for freight destined to Medford would be about 6:00 o'clock in the morning?

A. Not the earliest possible.

Q. I mean, under existing circumstances, that is approximately correct?

A. Yes.

233 By Mr. BEROL:

Q. Now, one other question: Is it your practice to distinguish between rush shipments and shipments that may not be in a hurry?

A. Yes; we give consideration to that

Q. In other words, do you tend, or intend to place the shipments that you know are in a rush, or in a hurry, on the first departure, wherever possible?

A. That is correct.

Mr. BEROL. If there is anything else that counsel cares about having developed, I would be glad to develop it.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. HEDGES:

Q. As I understand it, the 6-wheel trailer is dropped when the 6-wheel truck and the 6-wheel trailer reach the California-Oregon border. The dolly is pulled out from under the trailer and it is converted into a semitrailer; is that correct?

A. Yes.

Q. Then in what condition or what type of equipment is the trailer in when it is turned over to the Consolidated at Medford?

A. It is converted back into a 6-wheel trailer.

Q. It is converted back into a 6-wheel trailer at Medford?

A. That is right.

Q. And it is pulled as a 6-wheel trailer from Medford north?

234 A. That is right; we have to have extra dollies to convert them back into a 6-wheel trailer.

Q. I am curious to know why you convert the 6-wheel trailer into a semitrailer at the Oregon-California line and move it as a semitrailer from the Oregon-California line to Medford, and then, when you arrive at Medford, your company, the Oregon-Nevada-California Fast Freight, or the Consolidated, reconvert that semitrailer into a 6-wheel trailer again. Why is that done? Is their motive power different than yours from the border?

A. Yes.

Mr. HEDGES. That is all.

Cross-examination by Mr. ROBERTS:

Q. How many tractors do you have to haul your equipment from the border to Medford?

A. Three.

Q. Three?

A. That is right.

Q. How many trailers arrive on these various schedules that you speak of?

A. Daily?

Q. Daily.

A. From two to four a day.

Q. From two to four a day?

A. That is right; two, three, or four.

235 Mr. ROBERTS. That is all.

Chairman TERRIL. Mr. Farrens, do you have any questions?

Mr. FARRENS. Yes.

Cross-examination by Mr. FARRENS:

Q. With respect to your proposed operations, will you have a separate truck or semitrailer for delivery at Eugene which will go no further north?

A. Yes.

Q. In other words, it will stop at Eugene?

A. We intend to use the trucks as far north as Roseberg and the Coast area, but the converted trailers into semi-trailers will operate north as far as Portland.

Q. When you get as far north as Roseburg, the unit then will be stopped there and unloaded, and it will go no further?

A. You mean, come on through to Eugene?

Q. It will go no further north than Roseburg?

A. Yes.

Q. When you get to Eugene will there be one or more units stop at Eugene, which will go no further than Eugene?

A. I would say no, there would not.

Q. When you get to Grants Pass, will there be a unit stop there which will go no further north?

A. No. The Grants Pass freight will be handled on the truck the same as Roseburg.

Q. Does it follow that when the north-bound vehicle
236 reaches Grants Pass, it will have to stay over in Grants Pass long enough to be unloaded?

A. To take off the Grants Pass freight; yes.

Q. And when you get to Roseburg, will it have to stay over there to be unloaded?

A. If I have enough tonnage to Grants Pass and Roseburg to make a full load.

Q. When you come to Eugene, will the Eugene freight have to be unloaded from the vehicle?

A. Yes.

Q. That will be true of all intermediate points between Medford and Portland?

A. That is correct.

Q. Now, in computing your transit time, have you given full allowance for the stoppage of vehicles in transit to unload local freight?

A. I think I have, yes.

Q. What is your present arrival time at Medford?

A. From 6:00 to 10:00.

Q. I meant to say Klamath Falls.

A. Approximately the same as Medford.

Q. And will your equipment be stopped at Klamath Falls for the purpose of unloading Klamath Falls freight?

A. On the Klamath Falls schedule, the truck would not go any further north than Klamath Falls, but the trailer would be
237 converted into a semitrailer the same as at the California line south of Medford, and the semitrailer would go on north.

Q. Would you anticipate being able to load that truck so as to contain freight for delivery at Klamath Falls, and to load the trailer in such a fashion that it would contain freight only for delivery north of Klamath Falls?

A. That is correct.

Q. Would that at all times be an efficient operation?

A. I don't understand what you mean.

Q. In other words, wouldn't there be enough variation in the freight that is going further than Klamath Falls or to be delivered at points intermediate between San Francisco and Klamath Falls on the one hand and the freight that is to be delivered north of Klamath Falls, so that, on many occasions, you would have to put some of the freight destined south of Klamath Falls into the trailer, or vice versa, for points north in the truck?

A. Well, I don't think so; no. We might have to do that once in a while.

Q. If you got more freight for points north of Klamath Falls than you could carry in the trailer, and the truck ahead of that trailer had less than a full load, would you run an extra schedule for the purpose of avoiding placing some freight destined beyond Klamath Falls into the truck?

A. No; I would not run an extra truck for that.

238 Q. In some cases you think you would put that in the truck?

A. Yes; in most cases.

Q. In most cases?

A. That is correct.

Q. What would you do with the freight which was destined to points north of Klamath Falls, when you pulled the truck off and stopped at Klamath Falls?

A. What do you mean?

Q. Supposing you have some freight in the truck which was destined for points north of Klamath Falls?

A. It would depend on how much freight there was; if it was two or three tons, I would put it in the trailer.

Q. Could you do that? Provided you had room?

A. In California, the capacity of a 6-wheel trailer is 10 tons, and, in Oregon, when you convert it into a semitrailer you can haul about 13 tons.

Q. Let us suppose it is full to cubic capacity. What would you do with the freight that you brought up to Klamath Falls in the truck that goes no further than Klamath Falls?

Mr. BEROL. May I interject a question?

Mr. FARRENS. I think we have a very capable witness on the stand, and I would like to get an answer from him.

A. All the freight from the Bay area or San Francisco or the California points to Klamath Falls, and then, you say, north of Klamath Falls? That would be on the highway between
239 Klamath Falls and Goshen?

Q. Oh, no. The Portland freight.

Mr. BEROL. I think counsel and the witness are talking about two different things. May I state your question to the witness in a different manner?

Mr. FARRENS. Yes.

By Mr. BEROL:

Q. You would not, naturally, know what counsel is talking about, with some of the six-syllable words he is using. Mr. Gritsch, what counsel is trying to ask you is this: Suppose you had your trailer going through Klamath Falls destined to Portland, filled to capacity, but the truck that was destined to Klamath Falls with local freight was not filled to capacity and had some extra space on it; would you take any additional freight destined to Portland and put it on that truck that was going to stop at Klamah Falls? Is that the question, Mr. Farrens?

Mr. FARRENS. Yes.

A. No.

By Mr. BEROL:

Q. What would you do with the extra freight?

A. I would put it on the other route to Portland.

By Mr. FARRENS:

Q. That is a slower route to Portland, isn't it?

A. I understood it would be when the new highway will be completed.

Q. Then that freight would not get the delivery which
240 you have been representing to the shippers, and in that case, the shippers would not get the benefit of the speedy delivery?

A. I didn't hear you.

Mr. FARRENS. Will you read the question?

(Question read.)

A. I am not familiar with how much time we are going to save, but we will save all the time we can. From what I have heard all the different people talking in this case, we will probably be abe to get there in 24 hours, over the new highway.

Mr. BEROL. Have you finished that point?

Mr. FARRENS. Yes.

By Mr. BEROL:

Q. Now, Mr. Gritsch, with respect to a movement between San

Francisco and Portand, have you represented to any shipper that you will give them delivery earlier than the second morning?

A. I have not.

Q. Will it make any difference whether the freight moves via the new and faster and shorter highway, or whether it moves over the present route, with respect to when the shipper in Portland receives the freight?

A. It wouldn't make any difference whatsoever.

By Mr. FARRENS:

Q. One more question on that point: Let us assume that you have a truck loaded to less than capacity with freight des-
241 tined to Klamath Falls, with the trailer loaded to capacity to points destined north of Klamath Falls, and that the corresponding schedule is made on a truck loaded to less than capacity with freight for Medford, and the trailer is loaded to capacity with freight destined for points north of Medford; and then at Redding—I believe that is your connection at Sacramento?

A. That is right.

By Mr. FARRENS (continuing):

Q. Your north-bound schedule from Sacramento comes up with a goodly supply of freight destined to points north of Medford and north of Klamath Falls——

Mr. BROWN. I am lost now.

Mr. FARRENS. I don't think Mr. Gritsch is.

Mr. BEROL. I think counsel has become enmeshed in the intricacies of his own question.

Mr. BROWN. Will you read it, Mr. Reporter?

Exam. KEPHART. Suppose you read it all, that is, both questions, cutting out the interpolated comment.

(Question read as follows: "One more question on that point: Let us assume that you have a truck loaded to less than capacity with freight destined to Klamath Falls, with the trailer loaded to capacity to points destined north of Klamath Falls, and that the corresponding schedule is made on a truck loaded to less than capacity with freight for Medford, and the trailer is loaded
242 to capacity with freight destined for points north of Medford and your north-bound schedule from Sacramento comes up with a goodly supply of freight destined to points north of Medford and north of Klamath Falls——"

Mr. FARRENS. I will complete that by asking: What will you do with the goodly supply of freight offered at Redding on your Sacramento schedule?

Mr. BEROL. Do you understand the question?

The WITNESS No.

Mr. BEROL. Do you mind, Mr. Farrens, if I break that down to two or three questions?

The WITNESS. It would take a long answer.

By Mr. FARRENS:

Q. You understand what I am asking?

A. Yes, I understand what you want to know, but I would have to answer it this way, Mr. Farrens.

Mr. BEROL. Now, wait a minute. I want to make sure that you understand what he wants to know. What is your understanding of what he wants to know?

The WITNESS. He wants to know if I will run a truck half loaded from San Francisco to Medford, Oregon.

By Mr. FARRENS:

Q. Or whether you would load it in the two trucks ahead of the two trailers being full and the trucks half loaded?

The WITNESS. I will say, in actual operation, that does not happen; or is not likely to happen. We will work out
243 those problems as we face them.

Q. If you had that situation arise, would you run a partially empty schedule from San Francisco to Redding to pick up that freight at Redding?

A. Yes.

Q. Would you run entirely empty from San Francisco north to Redding if you had space for it in your truck?

A. No. If I had space for it in my truck, I would not.

Q. I had you Applicant's Exhibit No. 7 in Docket No. MC-42487, Sub. 15, and the other subnumbers consolidated with it for hearing, and I will ask you if that is a correct representation of your arrivals on the north-bound schedules at Medford?

A. I would say it is not.

Q. Would you be willing to supply at the San Francisco hearing, an exhibit, gotten up in the same manner, covering the same purported facts, showing the actual facts with reference to the times of arrival?

A. Showing the times of arrival?

Q. Showing times of arrival which you say are correct.

A. I will do so.

Mr. FARRENS. I think that is all.

Cross-examination by Mr. ELLIS:

Q. In that connection, I think, if we are going to go into
244 this subject, we had better go into it thoroughly and get the real low-down; and I at this time ask that the driver logs of these trips be made available in order that we may examine ac-

curately into the definite facts. It seems to me that is the best way to get the information.

Mr. BEROL. Just a minute. For what period?

Mr. ELLIS. For a representative period, whatever the Board's judgment on that might be would be satisfactory to me. I would say at least three months; perhaps six months.

Mr. BEROL. We will attempt to have this available. I don't propose to make up an exhibit or to examine a lot of drivers' logs, but if counsel wants to have them available, and if he wants the privilege of making an examination of them, I have no objection. We shall be glad to accommodate counsel in any way we can.

Mr. FARRENS. Can you do that at the adjourned hearing?

Mr. BEROL. There have been so many requests to make available various data that I am relying on the reporter's transcript as to what we are to supply; and if we may have the transcript so that we may examine it in time prior to the adjourned hearing in Portland or San Francisco, we will supply the information at that time. If we may have the transcript before the adjourned hearing in Portland, in time to examine the transcript, we will have it available in Portland. Otherwise, if we receive the transcript in time, to make an examination, we will have it
245 available in San Francisco.

Mr. FARRENS. In view of Mr. Ellis request, I withdraw my request. These drivers' logs would furnish the best evidence.

Chairman TERRIL. The Board feels that a log covering a three months' period would be ample.

Mr. BEROL. What months do you have in mind?

Mr. FARRENS. I think perhaps, beginning with April 1.

Chairman TERRIL. That can be done?

Mr. BEROL. Yes; I think so. We will attempt to furnish the information requested by counsel for April, May, and June.

Chairman TERRIL. It is understood: April, May, and June.

Mr. BEROL. Does anyone require anything further of Mr. Gritsch at this time?

Chairman TERRIL. That appears to be all.

(Witness excused.)

Mr. FARRENS. Before we call another witness, I would like to know from counsel for the applicant, whether these drivers' logs will disclose the equipment that was being used; that is, the tractors and trailers?

Mr. BEROL. Well, I might state, it has been some two years or a year and a half, when the Commission was holding a hearing, when logs were required, and it has been that time since I have examined a log. I don't know what is on the log, but whatever is available on the log will be available for the

246 examination of counsel, and whatever is not available on the log will not be available.

Mr. FARRENS. I don't care to have it passed by in that fashion. Mr. Gritsch is here, and he knows what is on the log. What I am asking is exactly such information as is shown on Exhibit 7 in the Consolidated Case. That is, it shows the time of arrival of the truck, the time of the arrival of the trailer——

Chairman TERRIL. Why not ask Mr. Gritsch? If he knows what is on the log, he can tell you. He has just left the stand, but he can resume the stand and you can get that information now.

Mr. FARRENS. Perhaps that would be a good idea.

Chairman TERRIL. Mr. Gritsch, will you kindly resume the stand? Mr. Farrens wants to ask you a question.

J. A. GRITSCH, previously sworn, was recalled and testified as follows:

Cross-examination (continued) by Mr. FARRENS:

Q. Mr. Berol says you will furnish the drivers' logs for the months of April, May, and June. When furnished, will it be possible to obtain from the logs information such as is shown on Consolidated Freightways Exhibit No. 7 in the previous case?

A. I couldn't say that, but, for instance, like April 2, I could get the driver's log for that day.

247 Q. When you get them, would you be able to ascertain from them the separate times of arrival of the trucks and trailers which were separated at the state line?

A. Oh, so far as I am concerened, I don't know if I could read the driver's logs; I have tried to several times. I can furnish you the logs and let you try to read them yourself.

By Mr. ROBERTS:

Q. You say your arrival time in Medford is from 6:00 to 10:00 o'clock in the morning.

A. That is the average.

Q. What is the delivery time?

A. All the way from noon until 3:00 or 4:00 o'clock; I couldn't tell you exactly off-hand.

Q. That is an approximation, as you understand it?

A. That is right. I am talking about the average of the arrivals times, which would be between 6:00 and 10:30; there may be some come in around noon, and some later; at the present time, the Bay area goes into Sacramento and loads freight there, which takes an hour and a half or two hours longer. If the truck does not go into Sacramento, of course, that will eliminate some time and the arrival time will be earlier.

By Mr. BEROL:

Q. You stated the deliveries at Medford were between noon and 3:00 o'clock in the afternoon. From what deliveries, or, from what schedules are those deliveries made at that time?

248 A. That is by the latest trucks to arrive.

Q. And when are the deliveries made from the earliest trucks to arrive at Medford?

A. I would say from one hour to an hour and a half from the arrival time at Medford.

Mr. BEROL. I think that is all.

Mr. FARRENS. That is all I have.

Chairman TERRILL. Anything further from anyone of this witness? That appears to be all. You may be excused.

(Witness excused.)

CARL BISMARK, previously sworn, was recalled and testified as follows:

Cross-examination (continued) by Mr. FARRENS:

Q. How long have you been shipping any substantial quantity of tires to points north of Medford?

A. I would say, about two years.

Q. And it has been two years since you have used the services of the Pacific Truck Express, I understand?

A. Just about.

Q. So I am correct in assuming that you have never used the Pacific Truck Express on shipments from San Francisco to points north of Medford?

A. No; I have not.

Q. When you said that, two years or more ago when you were using the Pacific Truck Express, that its services were unreliable, what services were you referring to?

249 A. Well, at that time, as near as I can remember, if I would have a shipment of, say, 50 pounds in weight, they would deliver it in a 5-ton truck, and sometimes they would tie up my entrance to the business for about ten or fifteen minutes before they would back out.

Q. It was not their line-haul service or their speed of delivery or the manner in which the shipment arrived to your place of business that you are complaining about?

A. Well, it is quite a long time for me to remember. I can't cite a particular case, but the shipments, as near as I can remember, were always rather late in getting in.

Q. In getting in from where?

A. From the north.

Q. From the north?

A. You had a change of management several times, which caused some of it.

Q. How were the deliveries from the south?

A. I didn't use them from the south.

Q. You never used them for north-bound shipments from San Francisco?

A. No. The reason I didn't, I didn't have any good luck with them from the north, and I didn't give it any more thought.

Q. Were you aware, Mr. Bismark, that the schedule of the Pacific Truck Express, that the leaving time is at 7:00
250 p. m. and the arrival time at 10:00 a. m. at Medford?

A. From San Francisco?

Q. Yes.

A. No, I don't believe I am.

Q. That the schedule provides for a leaving time at 7:00 p. m. at San Francisco and an arrival time at Medford of 10:00 a. m.?

A. No, I didn't know about that.

Q. Would that meet your needs?

A. No; it would not.

Q. What is the matter with it?

A. Well, I would feel more at ease if we had more than one or two carriers from the south; in other words, competition——

Q. You have that today, haven't you?

A. I imagine we do, but, as I say, I think we should have more.

Q. You have it today, and you don't use more than one line. What good would the other lines do you?

A. The good that the particular line would do me—I might explain it this way. If their service has always been satisfactory, I have no doubt as to what to expect from them.

Q. Then what would be the necessity of having a competing line if you get all the service you need out of one line, and you patronize only one line?

A. I might not do it all the time; and then, there may be
251 another line when I would need one.

Q. Before you wrote your letter to the Interstate Commerce Commission about available service, with whom did you discuss the subject?

A. I don't know just off-hand; I think I discussed it with Frank.

By Mr. BEROL:

Q. Frank Gritsch?

A. Yes; and I think the boys—I think he advised me to write.

By Mr. FARRENS:

Q. A letter to the Interstate Commerce Commission was written at the suggestion of some representative of the applicant?

Mr. BEROL. We admit that.

By Mr. FARRENS:

Q. If you were going to use some other service in order to satisfy your wants, what was the idea of writing the letter to the Interstate Commerce Commission?

A. I would say that we get service from points north of Medford. What I mean is, I would like to see that we get some service to and from those points. I would be able to use that service if we could get a faster service, or an afternoon delivery.

Q. Was that the subject of your letter to the Interstate Commerce Commission?

A. One of them.

Q. What did you ask the Interstate Commerce Commis-
252 sion with respect to that?

A. I asked for the transportation available, and I wanted to know whether or not there was any more than the four that I knew of.

Q. Did you say anything in your letter to the Interstate Commerce Commission about wanting this application to be allowed to operate north of Medford?

A. No; I don't think so. I just asked them for names of the different lines that run north.

Q. What did you want to do with that information after you got it, Mr. Bismark?

A. Well, I thought, if there was some line that would give me possibly better service to, I will say, Roseburg, in the afternoon, I might use it; if there was some trucking concern that I didn't know about——

Q. You got the information about the Pacific Truck Express, about its arrival at 10:00 a. m. from San Francisco?

Mr. BEROL. You mean from whom?

Mr. FARRENS. From the Interstate Commerce Commission.

A. No; I don't remember of that.

By Mr. FARRENS:

Q. You didn't ask anything about the schedule?

A. No; just the lines that serve north.

Q. Have you investigated the schedules of any of the lines that the Interstate Commerce Commission advised you offered such service, in addition to the service of the applicant?

253 A. No; I have not.

Q. You didn't make any use of the information that you got?

A. The reason I didn't was because there was nobody listed on there that I was not pretty sure would be of no good use to me. In other words, the companies listed, I was pretty sure, didn't have rights out of Medford, or would not be any good for me.

Q. Are you sure that a 7:00 p. m. departure and a 10:00 a. m. arrival at Medford, the next morning, would be of no use to you?

By Mr. BEROL:

Q. If you know that?

A. I don't believe I knew it.

By Mr. FARRENS:

Q. Did you make any investigation to find out?

A. No; I did not.

Chairman TERRIL. Any further cross-examination of this witness?

By Exam. KEPHART:

Q. Mr. Bismark, if a trucking concern does not solicit you, and you do not inquire of the Interstate Commerce Commission, what ways do you have of knowing what trucking lines operate through Medford which might be able to give you the desired service?

A. I don't know of any.

Q. Are they listed anywhere?

A. In the telephone book, I imagine.

Q. Is every one of the lines that goes through Medford
254 listed in the telephone book, if he has any office there?

A. That would be the only place I would know to look for it.

Redirect examination by Mr. ADAMS:

Q. The Pacific Truck Express, have they solicited you in the past two years?

A. I don't believe they have; I am pretty sure they have not.

Q. Has any representative ever advised you of any schedule of the Pacific Truck Express during the past two years?

A. Will you ask the question again?

Q. Has any representative of the Pacific Truck Express ever advised you of any schedule of the Pacific Truck Express during the past two years?

A. I don't think so.

Q. Did you hear Mr. Gritsch testify a few minutes ago?

A. Yes.

Q. Did you hear him state that the time of arrival to points north of Medford——

A. (Interposing.) Yes; I heard that.

Q. Would that interest you?

A. Yes; it does.

Q. Does that beat anything that is available to you at the present time?

A. I believe it does.

Q. Do you know of your own knowledge how the small places like Wolf Creek and Glendale are now served; whether the
255 truck drops off shipments there or whether it goes to Grants Pass and is brought back?

A. Outside of Pierce, I don't believe I could say.

Q. How does Pierce Auto Freight handle it?

A. I think he drops it off the truck—points north of Grants Pass?

Q. Yes.

A. Yes.

Q. How about Wolf Creek? Does he drop them off there? Do you know?

A. I couldn't say for sure.

Q. A question was asked you and you testified that you sold a few recaps to the applicant. Was that anything that would be of influence to you in appearing here today in behalf of this application?

A. You mean the Oregon-Nevada-California Fast Freight?

Q. Yes.

A. None whatsoever.

Q. Have you sold any recaps to any other firm?

A. I have sold Archie Pierce more than I have sold to the Oregon-Nevada-California Fast Freight.

Q. Did Pierce Auto Freight inform you of any through service to points north of Medford, from San Francisco?

A. Not in the last year, I think it is a year, when they first started running a truck down there.

256 Q. A question was asked you whether the projected service, or alleged service of the Pierce Auto Freight between points north of Medford and San Francisco, if that would meet your requirements and you said "Yes." What did you mean by such an answer?

A. I meant it in this way: I feel that I would be safer if I knew there was another line in there that I could depend on, or that I could fall back on if the one I am dealing with falls down, or if their truck has already left and I could catch the next one.

Q. Does that tie up with your previous testimony on direct that you had difficulty on occasions in getting shipments moved because they were held over until the next day?

A. Yes, I believe it does.

Chairman TERRIL. I believe that will be all.
(Witness excused.)
Mr. ADAMS. Mr. Bates.

L. W. BATES was sworn and testified as follows:

Direct Examination by Mr. ADAMS:

Q. Will you state your name?
A. L. W. Bates.
Q. You reside at Medford, Oregon?
A. Yes.
Q. What is your occupation?
257 A. Wholesale candy jobber.
Q. What is the business name of your concern?
A. Bates Candy Company.
Q. How long have you been in such business?
A. Four years—five years.
Q. Does that company ship between Portland, Oregon, and San Francisco, California, and points intermediate thereto?
A. That is right.
Q. You ship between Portland and Medford?
A. That is right.
Q. And you ship between San Francisco and Medford?
A. That is right.
Q. On your shipments from Portland to Medford, are they interstate shipments?
A. Yes.
Q. Will you explain your answer to the Board?
A. They come from Chicago and Seattle.
Q. Do they come in pool cars?
A. Yes.
Q. When they come in the pool cars to you, are they marked as to destination?
A. Yes.
Q. About what is the volume of those shipments per month?
A. It will probably average a ton a day; that would be about 25 tons.
258 Q. 25 tons a month?
A. That is right.
Q. Do you also ship from Seattle to Medford?
A. Yes.
Q. The last volume you mentioned was from Portland, was it not?
A. That is right.
Q. About what is the volume of the shipments per month from Seattle to Medford?

A. That is about 3 tons.

Q. That is candy?

A. Yes.

Q. Do you have any supplies that are shipped over those routes you have testified concerning?

A. Any supplies?

Q. Anything other than candy, that is shipped? For instance, do you have any cartons or boxes?

A. Not of any consequence; no.

Q. Now, are those shipments that come from Seattle and Portland—do they move into you by truck?

A. Yes; largely.

Q. Are you familiar with the services and facilities of the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. Do they serve you between San Francisco and Med-
259 ford on the north-bound traffic?

A. Yes.

Q. How have you found their service to be?

A. It is adequate, and I would not say anything against it.

Q. Would you say anything for it?

A. Yes.

Q. Would you like to see the Oregon-Nevada-California Fast Freight given authority to operate between Portland and Medford?

A. You bet; that is why I am here.

Q. Will you explain to the Board why?

A. I feel that a little competition up here wouldn't hurt, and maybe I would get better service.

Q. Have you had any difficulty in the past because of service?

A. Yes; there has been a delay now and then, and I don't know why; they seemed to be overloaded.

Q. What is the service available to you or which you have received between Portland and Medford by motor carrier?

A. By motor carrier, it would be Pierce, Pacific Truck Express, and Consolidated.

Q. In making your answer, you have used those three carriers named?

A. Yes.

Q. And you had those three carriers in mind?

260 A. Yes.

Q. You feel there is a need for additional service, and you are here testifying for this application, so far as your company is concerned?

A. That is correct.

Mr. FARRENS. I will object to that question as leading.

Mr. ADAMS. Certainly it is leading. Is that right?
Chairman TERRIL. Try it again.
Mr. ADAMS. I don't think he is seriously objecting.
Mr. FARRENS. Yes; I am.
Chairman TERRIL. Can't you make it a little less leading?
Mr. ADAMS. I was trying to expedite it.
Mr. ROBERTS. That is not the way to speed it up.

By Mr. ADAMS:

Q. Is your company's need and necessity such as to require the authority for the applicant, which he seeks here, to operate between Portland and Medford?
A. Yes.
Q. And between San Francisco and Medford?
A. Yes.
Q. And is that for the reasons you have stated?
A. Yes.
Mr. ADAMS. You may cross examine.

Cross-examination by Mr. ROBERTS:

Q. You have been in business there approximately four or five years?
261 A. Yes.
Q. Where is your place of business?
A. North Riverside.
Q. You have had occasion to use the services of whom from Portland, on interstate shipments?
A. The Southern Pacific Freight Lines, the Consolidated—that is, the Pacific Truck Express.
Q. You have had no occasion for use of intermediate shipments?
A. I don't understand.
Q. That is, just from Portland to Medford?
A. Yes. I have occasion to use intermediate shipments.
Q. Have you found the services of other truck lines satisfactory?
A. No.
Q. In what way?
A. As I stated before.
Q. I don't exactly understand.
A. The delays, and on a few occasions they seemed to be overloaded; the service has not been the best.
Q. Do you know whether or not that was occasioned by failure to give the shipments to the carrier in time?
A. I have not received it in time, I know.
Q. Do you know whether it was given to the carrier in time by the shipper?

A. I know the invoices were made out, which seemed to
262 indicate they were.

Q. You don't know whether it was delivered to the carrier?

A. I was not up there when the delivery was made to the carrier, naturally.

Q. That is what I am talking about.

A. I was not there. I have the knowledge of having the invoices, and I questioned the manufacturers, and they said it was shipped.

Q. But you don't know when it was given to the carrier?

A. Of course, I don't; I was not there.

Q. Has that been an occasional delay, or often?

A. Well, I can check back; maybe once a week.

Q. And your shipments, how much do they amount to? Do they amount to a ton per day?

A. Yes.

Q. How were these shipments that were delayed, how large were they as to tonnage?

A. That is pretty hard to say. It may be a large shipment or a small shipment. Normally, it would be a large shipment, because, on small shipments, they should find space.

Q. Have you ever known of a time when these truck lines could not handle your business?

A. Have I ever known?

Q. In other words, they can adequately supply whatever service you have asked, except in the case of some delays which
263 have occurred occasionally?

A. You say they can?

Q. I am just asking you. Have they ever refused to accept any shipments?

A. I don't know. I don't get the merchandise on schedule. That is all I know.

By Exam. KEPHART:

Q. Does the traffic north of Medford move in a north-bound direction or a south-bound direction?

A. North of Medford?

Mr. ADAMS. He only ships between Portland and Medford.

Exam. KEPHART. I thought a question was asked him about San Francisco shipments.

Mr. ADAMS. He only ships between Portland and Medford.

By Exam. KEPHART:

Q. Does your shipment, or your shipments, between Portland and Medford—does that traffic move south-bound or north-bound?

A. South-bound. I buy it normally in Chicago.

Q. And it moves through Portland to Medford?

A. Yes.

Chairman TERRIL. Are there any further questions of this witness? Apparently not. You may be excused.

(Witness excused.)

264 Mr. ADAMS. Mr. Flynn.

D. L. FLYNN was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you state your name?

A. D. L. Flynn.

Q. Where do you reside?

A. Medford.

Q. What is your occupation, or employment?

A. Electrical contractor.

Q. Under what name do you carry on your business?

A. Trowbridge & Flynn.

Q. Does your company ship between Portland and Medford?

A. Yes.

Q. Does your company ship between Seattle and Medford?

A. Yes.

Q. San Francisco and Medford?

A. Yes.

Q. What commodities do you ship?

A. What type of commodities?

Q. Name the various commodities.

A. Refrigerators, ranges, wiring materials, conduits, refrigerating equipment, pumps, motors.

Q. Lighting fixtures?

A. Lighting fixtures.

265 Q. Approximately what is the volume of your shipments between Seattle and Medford per month?

A. Approximately what?

Q. Approximately what is the volume of your shipments between Seattle and Medford per month?

A. The demand varies on that, of course. In the past we have—our shipments, of course, are over 100 pounds and in various seasons of the year the quantities vary. We have bought mostly lighting fixtures and commodities of that type from Seattle. I would say, in the fall of the year, when fixtures are selling more, there are probably two or three hundred pounds at a time, at least.

Q. How many shipments a month?

A. There would be at least three or four shipments per month.

By Exam. KEPHART:

Q. All your shipments are less than truckload quantities?

A. Oh, yes.

By Mr. ADAMS:

Q. About what is the volume of your shipments between Portland and Medford?

A. In tonnage?

Q. Yes.

A. Archie could state that better than we can.

Q. About what is it?

Mr. FARRENS. I will object unless it is made clear whether it is intrastate or interstate commerce.

266 Mr. ADAMS. I was going to ask him that next. Do you want me to ask that first?

Mr. FARRENS. I want to find out.

By Mr. ADAMS:

Q. On your shipments from Portland to Medford, will you state where they originate and what the situation is when they arrive at Portland?

A. The ones that we have shipped to Medford, the majority of the merchandise is merchandise ordered in Portland; some of it is ordered in the East and is rerouted to Medford.

Q. Do you know how it comes from the East to Portland?

A. I think it is the National Carloading Company.

Q. Do you know that?

A. Some of it is, I know.

Q. When it leaves the East is it marked for destination to you at Medford?

A. Yes.

Q. And it moves from Portland to Medford by truck?

A. Yes; in a good many cases, it does.

Q. About what is the volume of that which originates in the East and comes out to you via the National Carloading Company, or some other pool car concern and is forwarded to you at Medford?

A. That is, I believe, awfully hard to answer. I would say that we buy the fall merchandise, and Christmas merchandise, which we buy in summer; those are usually pretty good

267 sized shipments, and usually there are only one or two shipments of that type; and there are probably 500 to 1,000 pounds in those shipments.

Q. Are you stating for what period? Per month?

A. No; in the seasons. Most of our merchandise is bought on the Coast.

Q. That is, either at Seattle or Portland?

A. Seattle, Portland, or San Francisco, or, even, Los Angeles.

Q. Are you interested in the time in transit? Do you want speedy delivery?

A. Absolutely.

Q. Are you familiar with the facilities and service of the Oregon-Nevada-California Fast Freight Line?

A. I use them from San Francisco to Medford.

Q. Have you found their service satisfactory?

A. Yes.

Q. What other motor carriers are available to you between Portland and Medford?

A. Pacific Truck Express, Consolidated, the Pierce Line, and the railroads.

Q. Of your shipments that come to you from Portland, that either originate in the East or Seattle, about what percentage of those move by truck and what percentage move by rail?

A. That would be impossible for me to answer.

Q. Can you state the majority one way or the other?

268 A. I would not be able to answer that, because I would not know.

Q. Do you have considerable truck movements?

A. Most of our freight is shipped by truck.

Q. Then the majority does come by truck?

A. Yes; but the percentage I don't know.

Q. You are not here complaining about the service or facilities of the three carriers that you named?

A. What do you mean?

Q. I mean, you are not complaining as to them, are you?

A. No.

Q. You are here supporting the application?

A. Yes.

Q. What is your reason for being here?

A. For supporting the application.

Q. And you are requesting the Commission to issue to the Oregon-Nevada-California Fast Freight authority whereby they may transport interstate shipments for you from Portland to Medford?

A. I can state the reverse of that. There may be times come up when we may want to change the shipper, and we may have some unsatisfactory relations with the shipper; and if we are pinned down to one or two shippers, our hands are tied.

Q. You mean one or two truck lines?

A. Yes; one or two carriers. I feel a little competition in that line, as well as competition in our business, makes it better

269 for everybody.

Q. You have three truck lines?

A. Yes.

Q. You think there is need for an additional carrier?

A. I think an additional carrier would be good.

Q. Do you have delays in shipments coming to you from Portland?

A. There are delays. What the delays are, just like the previous witness said, it is impossible to know, because sometimes—oh, sometimes it would be a day's delay, and I wouldn't know why we wouldnt get it. We are not at the freight warehouse, and at the receiving end, at the same time.

Q. Have the Pacific Truck Express solicited your business in the last year?

A. Have they what?

Q. Have they solicited your business in the last year?

A. What do you mean by "solicited"?

Q. Have they had a man come down to your place and ask you for your business?

A. I presume possibly they have; they are in our store, all the different carriers; I presume occasionally they have.

Mr. ADAMS. You may cross-examine.

Cross-examination by Mr. ROBERTS:

Q. You have used most of the carriers—let me ask you
270 first: You have most of your shipments coming out of Portland?

A. Most of them; yes.

Q. You have used the services of the Pierce Auto Freight Lines, Consolidated, Pacific Truck Express and rail?

A. That is correct.

Q. Where do the majority of your shipments move now? By whom do they move? By the Pierce Auto Freight Lines, Consolidated, or Pacific Truck Express?

A. Most of it comes by Pierce.

Q. Have you found the services which are rendered by Pierce entirely satisfactory, services which meet your needs and requirements?

A. I would say it was a very satisfactory service.

Q. And it met your needs and requirements whenever you have had occasion to use them?

A. That goes back to the same question I was asked a moment ago. I feel there might be a time when the service would not be satisfactory, and I would not want to be tied to one line.

Q. In other words, you are interested in having another carrier so that, if something might arise in the future, you would have another carrier to take care of your needs?

A. It won't be so apt to happen if we have competitive carriers.

Q. Have you ever thought that if you get a sufficient number of competitive carriers, or a greater number of competitive

carriers, that competition might become so keen that one or
271 more of them may have to drop out of the business, and thereby your competition would be reduced? Have you ever thought of that?

A. I haven't given it any thought; no.

Q. That would not be satisfactory to you, would it?

A. No.

Mr. ADAMS. Let him answer the question.

Mr. ROBERTS. Sure. I thought he did answer the question.

By Mr. ROBERTS:

Q. Have you anything more to say?

Exam. KEPHART. Your answer is "no?"

The WITNESS. Yes. I answered "no."

Mr. ROBERTS. That is what I thought.

Exam. KEPHART. He asked you if that would not be so satisfactory, and you answered "no?"

The WITNESS. That is right. I answered "no."

By Mr. ROBERTS:

Q. Insofar as the service that you have received from Pierce is concerned, and which you receive from Pierce at the present time, wouldn't that satisfy your needs?

A. I just stated, there might be a time when I would want to use some other line.

Q. Well, let me put it this way. Insofar as the service which you receive from Pierce at the present time is concerned, there is nothing in that service to cause you to believe that it will not continue to be satisfactory?

A. It should be satisfactory.

272 Q. As it now stands, it does meet your needs and requirements?

Mr. ADAMS. You have asked him that same question twice previously.

Chairman TERRIL. Just a minute.

Mr. ADAMS. That is a legitimate objection.

Chairman TERRIL. Well, make it in the form of an objection, then.

Mr. ADAMS. I will object to the question as having been twice answered.

Chairman TERRIL. I think he has answered the question at least once.

Mr. ROBERTS. Very well. That is all.

(Witness excused.)

Chairman TERRIL. We will take a ten-minute recess.

(Recess.)

Mr. ADAMS. Mr. Shook.

M. H. SHOOK was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Your name is M. H. Shook?

A. Yes, sir.

Q. You reside at Roseburg, Oregon?

A. Yes, sir.

Q. What is your business, Mr. Shook?

A. Produce business; poultry, eggs, and turkeys.

273 Q. Under what name do you carry on your business?

A. Valley Produce.

Q. You are the owner of that company?

A. Yes, sir.

Q. Do you ship between the San Francisco Bay area and Roseburg?

A. Yes.

Q. What do you ship?

A. We ship dressed poultry, dressed turkeys, and eggs.

Q. Eggs?

A. Yes, eggs.

Q. About what is the approximate monthly volume of your shipments between the San Francisco Bay area and Roseburg?

A. Around 10,000 pounds, or a little more.

Q. About 10,000 pounds a month?

A. During the holidays it will run heavier than that.

Q. How do you ship your shipments between the points named?

A. By truck.

Q. Do you know anything about the service and facilities of the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. Have you ever used their facilities?

A. I have used them going South in conjunction with the other lines—connecting lines.

Q. You have used them between San Francisco and Medford?

274 A. Yes.

Q. And they have performed that part of the service which you have required?

A. Yes.

Q. What motor carriers are available to you between Roseburg and the Bay area?

A. There is Pierce, Consolidated, Pacific Truck, Cascade— the Cascade will stop there.

Q. Will stop at Roseburg, if notified?

A. Yes.

Q. They don't have an agent there?

A. They don't have a regular warehouse.

Q. They haven't any terminal there?

A. No.

Q. Do you understand that Pierce operates through from Roseburg to Frisco?

A. How is that?

Q. Has the Pierce Auto Freight ever advised you of having a service from Roseburg to San Francisco?

A. I don't believe they have. I think the last time I talked to them—I think it was in July about a year ago.

Q. Will you speak a little louder?

A. I don't believe they ever informed me that they ran into California. The last report I had from them was that they were running to the line.

275 Q. Running to Medford, and then connecting?

A. That is right.

Q. Do you have any complaint as to the service that is now available to you, that you have used?

A. The service I have used?

Q. Yes.

A. Yes.

Q. Will you state such a complaint to the Board and the Examiner?

A. Well, in the past the time of arrival of the truck has been very uncertain, and also many of the times we don't know whether we would be able to load or not. If they were loaded when they started out, they would go on straight through, and there would be a delay, because they would not stop for our shipments. I have called several times, and shipments have been supposed to go out at ten o'clock at night, and they would not go out at all until four o'clock the next evening.

Q. Have you waited for such deliveries?

A. I have waited until four or five o'clock in the morning for them.

Q. Do you have any other complaints?

A. The refrigeration has not been the best.

Q. Have you had any difficulty on account of improper refrigeration?

A. Yes.

276 Q. That is, in the existing service?

A. I have, in the past; I have had difficulty on account of improper refrigeration.

Q. Do your products require refrigeration?

A. Yes.

Q. Are you interested in a faster transit time between Roseburg and Frisco?

A. Yes.

Q. Is that of importance to you?

A. Yes, very much; the faster the better.

Q. Can you explain that to the Board and the Examiner?

A. Well, our products are naturally perishable, and the market fluctuates very fast, also, and it is necessary that we go down there under proper refrigeration—that the products go down there under proper refrigeration, and in a very fast time. If we send an air mail letter that the shipment is coming, stating the time of arrival, the merchandise is sold on that basis.

Q. Were you here this morning and did you hear Mr. Gritsch testify concerning the schedule between Roseburg and San Francisco?

A. Yes.

Q. Is the service—as the service is outlined by him, do you think it would get away from your difficulties?

A. I think it would speed it up quite a bit; in fact, I know it would.

277 Q. How would that compare with your existing service?

A. It would put our shipments in there faster.

Q. Do you understand that the Oregon-Nevada-California Fast Freight has mechanically refrigerated equipment?

A. Yes.

Q. And is that the kind of equipment that you are looking for?

A. That is the kind I use when I can.

Q. Of the carriers that have served you, what ones have mechanically refrigerated equipment?

A. Yours and the Consolidated are the only ones that we had.

Q. You mean the Consolidated and the Oregon-California Fast Freight are the only ones you have ever used that have had that equipment?

A. Yes.

Q. And I take it that you did testify that you have used, at various times, carriers that you have named, that were available to you?

A. Yes.

Q. And did you make any investigation to ascertain whether or not there were other carriers than the ones named, available to you?

A. Yes.

Q. What investigation have you made?

A. I investigated at Roseburg, and also I have written to the Interstate Commerce Commission.

278 Q. Have you been able to find any other carriers?

A. No, sir.

Q. Have you been vitally interested in attempting to find some carrier that could supply the service that you have testified to here that you need?

A. I have been looking for refrigerated, fast service for the last four or five or six years.

Q. And that which you have been able to obtain has not been satisfactory?

A. It has not been satisfactory.

Q. Do you know anything about the reputation of the Oregon-Nevada-California Fast Freight service?

A. The information I have received is that it is good, dependable service; and they use the kind of mechanical refrigeration that we need.

Q. Has anyone ever asked you, other than the line itself, to see if you could obtain faster service on your shipments, or better refrigeration?

A. I have discussed the matter with the broker in San Francisco, and he has been talking with me several times to see if I couldn't get better service.

Q. Has he mentioned the——

A. (Interposing.) A couple of times he asked me in the past if this particular line—

Q. The Oregon-Nevada-California Fast Freight?

279 A. Yes. He asked me if they were operating here, that he was getting good service from them elsewhere.

Q. He was getting good service out of them?

A. Yes.

Q. And you feel that you have a very definite need for the service of this carrier?

A. Yes.

Q. And that is why you are here?

A. Yes.

Mr. ADAMS. That is all.

By Chairman TERRIL:

Q. Mr. Shook, did I understand you correctly, that most of your shipments were 10,000-pound minimum shipments?

A. No. It would be 10,000 pounds a month. The amount that we ship at the present time, would be about a ton at a time, I would say.

Q. Then it would not be either a truck or trailer load?

A. At Thanksgiving time or Christmas time, through the holidays, at different times it would perhaps run around 10,000 pounds, occasionally.

Q. Your 10,000-pound monthly statement referred to the average throughout the year?

A. Yes.

Q. On your shipments moving southbound?

A. Yes.

280 Q. They all move south-bound?

A. Practically all of them; yes.

Cross-examination by Mr. ROBERTS:

Q. As I understand it, in answer to the question by Mr. Terril, that is 10,000 pounds of south-bound movement per month?

A. Yes; on the average.

Q. You have used refrigerated service for how long, south-bound?

A. For a little better than four years.

Q. A little better than four years?

A. That is right.

Q. You have used the Consolidated Freightways in conjunction with the Oregon-Nevada-California Fast Freight during that period of time?

A. Just lately; yes.

Q. Lately?

A. Yes.

Q. What carriers did you use prior to that time?

A. Well, I used the Pacific Truck Express; I have used the Cascade Fast Freight; I believe that is about all.

Q. Do they have refrigerated service, too?

A. To a certain extent; yes.

Q. To a certain extent?

A. Yes.

Q. The service that you got from the Oregon-Nevada-

281 California Fast Freight and Consolidated service, has that been satisfactory to you? By the way, is that the service you are using now?

A. Yes: it is much more satisfactory than I have been getting; but I would like to speed it up.

Q. In what way?

A. To make faster time.

Q. To speed the time of arrival in Roseburg?

A. Yes; the time of arrival in Roseburg, the time that the trucks get in Roseburg, and the time of arrival in Frisco.

Q. You mean the length of time consumed in transit?

A. Yes; that, too.

Q. Do you know where there has been any delay occasioned?

A. There has not been very much delay lately. As I say, the only thing is the transferring, as I understand it, at the line or Medford; transferring from one line to the other. If we get

this new line, we will have a truck line through from one point to the other, with no transfer.

Q. But the delay that has been occasioned so far has not particularly hurt your shipments?

A. In the past?

Q. Yes.

A. It has.

Q. I mean, recently?

A. Not in the past two or three months.

282 Q. It has enabled you to get to the market with your produce in good condition?

A. In a reasonably good condition.

Q. It has gotten there in time to get the prices that you had contracted for?

A. It has done pretty well under existing conditions, but we want a better service.

Q. Do you know whether your produce goes into San Francisco on through equipment, or whether it is transferred?

A. I understand it is transferred.

Q. Transferred from one truck to another?

A. That is the way I understand it.

Q. It does not go into Frisco on a through daily service from Roseburg?

A. It is my understanding that it depends on the volume—the way it is being handled.

Q. I don't quite understand you.

A. It is my understanding, according to the volume that they have been able to get; I have never been down to Medford to see whether it is transferred or not.

Q. Is that what you have been told by the agent of the Consolidated?

A. Yes.

Q. If you had more volume it would go in through service, without transfer?

283 A. No; they start loading on the way from Portland, on the way down, and I am at the last end of it.

Q. Do you ship out of Portland, too?

A. No; I ship out of Roseburg.

Q. Do you ship to Portland?

A. Very little; no, I have not shipped to Portland for quite some time.

Mr. ROBERTS. That is all.

Cross-examination by Mr. HEDGES:

Q. Do you also operate at Albany?

A. No.

Q. You are not identified with the Shook Produce Company there?

A. No.

Q. You know there is one there?

A. Yes.

Q. Has the time element been better since you have used the Oregon-Cal.-Consolidated service?

A. What do you mean?

Q. I mean as compared with the previous carriers you have been using; in the elapsed time en route?

A. Yes.

Q. I didn't understand your answer.

A. The time element has been better since the change.

Q. Even by the rehandling connection at Medford?

284 A. Still, I would say, from the time element, from the time that they leave my place—oh, I don't know whether it is any faster, but I get better refrigeration, and I know more about when it is going to leave.

Q. That is what I was trying to get at. Insofar as the time en route is concerned your time has not been any better by the Consolidated-Oregon-Nevada-Cal. than by the previous carriers?

A. It has been.

Q. It has been?

A. Yes, sir.

Q. And, in addition, the refrigeration has been better?

A. The refrigeration has been better.

Q. And the time of leaving Roseburg has been better?

A. Yes.

Q. And the time of arrival at Frisco has been better?

A. Yes.

Q. So that at the present time you are now receiving the best service you have ever received?

A. Yes.

Mr. HEDGES. That is all.

Cross-examination by Mr. FARRENS:

Q. Is that service a satisfactory service that you are now receiving?

A. I would like to have it improved.

285 Q. In respect to refrigeration?

A. Refrigeration and time.

Q. Is the refrigeration you are now receiving satisfactory?

A. I haven't had any trouble with it in the last three months. The only thing is that, at one time in particular, they were loaded and they could not take my shipment, and I had to let it lay over.

Q. That has not been true during the last three months?

A. Yes.

Q. Oh, it has?

A. Yes.

Q. Is the service which you have been receiving from this applicant and the Consolidated Freightways satisfactory in the matter of time elapsed—during the last three months?

A. Well, there was one shipment in particular; I had to leave it, and it didn't go, because they didn't have room.

Q. Do you know when they picked up your shipment?

A. I don't recall now.

Q. Has the matter of time on those shipments been satisfactory in the last three months?

A. I would not say it has been satisfactory; I would like to see it speeded up. It is second-morning delivery before we can get it through there.

Q. When do you load on south-bound shipments?

A. Well, it varies from midnight on.

286 I got tired of sitting up all night waiting for them, so I turned the key over to the Consolidated and told them to go down and get it.

Q. On the present service?

A. On the present service.

Q. What time would you load, with the proposed service?

A. On the proposed service, as I undertand it, I can load out earlier in the evening, and it will go straight through and get there, as I understand it—as I understand it, it will arrive—instead of loading at three o'clock in the morning and have second-morning delivery, I can load it earlier in the afternoon and it will be there the next day.

Q. When you load it at three o'clock in the morning, you get next-morning delivery, don't you?

A. If I hold it there until three o'clock, it is delivered the second day.

Q. It would get there on Thursday morning?

A. No; it is Friday morning delivery.

Q. Now, when did you quit patronizing the Pacific Truck Express?

A. I have not patronized them for, I would say, a year or so.

Q. Do you know what their present service is in the matter of elapsed time?

A. From Roseburg?

Q. Between there and San Francisco.

A. I don't know exactly.

287 Q. Have you made any investigation during the past year to ascertain what their schedules are?

A. Yes, I have talked with the man. As I understand it, it is the same as these others, second-morning delivery.

Are you of the impression that there is as great elapsed time on the Pacific Truck Express Service from Roseburg to San Francisco as there is with the service that you have been using in the past three months?

A. As great elapsed time?

Q. Yes. Have you investigated?

A. I have not investigated.

Q. You don't know whether it is considerably faster than the service you are using?

A. I don't know.

Q. If it was a matter of substantial importance to you, wouldn't you have investigated it? Wouldn't you?

A. For three or four hours, it wouldn't make so much difference, because they don't have the refrigeration.

Q. Do you know whether or not the Pacific Truck Express has new, refrigerated equipment?

A. They didn't, the last time they talked with me.

Q. When was that?

A. I think it was two or three months ago.

Q. They told you they didn't have refrigeration?

A. They said that they were going to have it, but they
288 didn't have it at that time.

Q. Do you know whether they have it now?

A. I have not checked that lately.

Q. Now, was the arrival time of the Pacific Truck Express when you were using it a year or more ago, more or less uncertain than the present service?

A. More uncertain than the present service.

Q. Between what hours did the arrival times vary?

A. Well, I have had them tell me that they would be there between 8 and 10 o'clock in the evening to pick up my shipments, and they have not arrived until the next morning.

Q. That is the same experience you have had on the present service?

A. No, sir; they told me they would not be there until midnight. That is the time when they will arrive.

Q. Do you understand that, in addition to the application which this applicant is making to extend its service from Medford north to Portland, that there is also being presented at this time the application of the Consolidated Freightways to extend its service from Medford south to San Francisco?

A. How is that?

Mr. FARRENS. Will you read the question?

(Question read.)

A. Yes; I do.

Q. Now, in your opinion, from the standpoint of your
289 business and your experience is it necessary that there be two additional through carriers over and above the through carriers who are already in the field, or would one additional through carrier be enough?

A. No; I want another one.

Q. And if a third one made application, you would want the third party granted a certificate—assuming it was a responsible company?

A. You mean, if we had two or three responsible carriers, concerns that have refrigeration, who services are dependable, all of them should be granted rights?

Q. Yes.

A. That I would want another one?

Q. Still another one?

A. I don't know as I understand you.

Q. How many would you want, in other words?

A. I am not particularly anxious to get a whole flock of them, but I want something that I can depend on so that I can get my shipments in there in proper condition.

Q. That is all you want, dependable service?

A. Dependable service and know that I can get it there when it is supposed to be there.

Q. And if you can get dependable service in the matter of speed of delivery, time of arrival for pick-up, time of delivery at destination, with a responsible company, that is what you want,
290 and that is all you want?

A. I want more than one company.

Q. Can you give the Commission an idea of how many companies you think there should be to make you feel safe on this matter?

A. As I said, I don't want a whole lot of companies, but there is not enough at the present time.

Q. If there were three companies furnishing the services of a type proposed by this carrier, would that be sufficient?

A. I think it would be.

Q. Now, in this matter of writing to the Interstate Commerce Commission about the services available, did you write that letter yourself on the typewriter, or in longhand, or was it given to you by the applicant?

A. It was written in my office, on the typewriter, by my wife.

Q. On a form that had been given to you by this applicant?

A. How is that?

Q. On a form that had been given to you by this applicant?

A. How is that?

Q. Did this applicant furnish the form or the letter?

A. The applicant was not in the office at the time, but he had talked to me about it.

Q. Did he dictate the letter?

A. He did not.

Q. Now, considering the fact that there are two applications pending for extension of service through, or, rather, between
291 Portland and San Francisco, and that those two applicants now are handling the total business produced by each, that is, the aggregate business interchanged at Medford—assuming that they will split the business, that will cause each one to handle a smaller volume than it is handling at the present time?

A. Not for very long; only temporarily. With better refrigeration, and with better service, there will be more moving before long.

Q. How long do you think it would be before the business would be doubled by reason of the two carriers?

A. That I cannot say.

Q. Your through service by refrigeration, or through service with refrigeration depends on the volume available?

A. How is that?

Q. Through service with refrigeration depends on the volume available, doesn't it?

A. As I understand it.

Q. If those two carriers divided up the total through refrigerated business, the volume which will be available will be only about half of that which is now available, that is, for each carrier, assuming that each carrier gets 50 percent of it?

A. That might be true now, for a while. As I say, it would improve and business would improve, and the volume
292 would be bound to improve.

Mr. ADAMS. The present refrigerated service is from Portland to San Francisco, a through service.

Mr. FARRENS. All right. I will drop that part of my question.

By Mr. FARRENS:

Mr. ADAMS. I am just advising you that it would stop. at Roseburg?

Mr. ADAMS. I as just advising you that it would stop.

Mr. FARRENS. All right, I will reframe the question.

By Mr. FARRENS:

Q. So that if you can't get through refrigerated service from Roseburg south now, when the company that you are patronizing has had its business cut in two, in the future, if these applications are granted, your chances of getting through refrigerated service would be less than they are now?

Mr. BEROL. I will object to that as being argumentative.

Chairman TERRIL. The objection is sustained.

Mr. FARRENS. Note an exception.

Chairman TERRIL. You may have it.

Mr. FARRENS May I have the reason on which this objection was sustained?

Mr. BROWN. I would sustain it on the ground that it is immaterial.

Chairman TERRIL. It is argumentative.

Mr. FARRENS. One member of the Board says it is immaterial, and one says it is argumentative.

293 Mr. BEROL. I will object to it on both grounds.

Mr. BROWN. The objection has been sustained. Let's get along.

Mr. FARRENS. I will make an offer of proof that, if permitted to follow this line of cross-examination. I would expect to demonstrate through the witness now on the stand that presently he is unable, at times, to get service on the through refrigerated trailer operated by Consolidated and this applicant, and that, if these applications are granted, due to lack of volume, the two carriers having split up their business, there will be less possibility of having such service in the future than there is at present, because of the lack of volume.

Mr. BEROL. What counsel is suggesting is purely an argumentative matter.

Mr. FARRENS. I just made an offer of proof, and I am going no further with it.

By Mr. FARRENS:

Q. Is it of any importance to you to have less handling in transit?

A. Yes.

Q. You would like to have that eliminated by having the carrier authorized to serve you straight through?

A. Yes; if possible.

Q. What effect does handling in transit have on your commodity?

A. Well, the less we handle these boxes of dressed poultry, or the less we handle a case of eggs, the better condition it

294 arrives in; handling it and throwing it around does not do it any good.

Q. When you spoke of the service you had been receiving the last two or three months, you have referred to the service being accorded by the Consolidated Freightways in conjunction with the Oregon-Nevada-California Fast Freight?

A. Yes.

Mr. BROWN. In view of your statement just made, I would like to withdraw my statement to the effect that I would sustain the objection on the ground that it was immaterial. I think it would be material.

Mr. FARRENS. The objection remains sustained on the ground that it is argumentative, then?

Mr. BROWN. That is right.

Mr. FARRENS. That is all.

(Witness excused.)

Mr. STEPHAN. Before you proceed with the next witness, if the Board please, may I supply the motion which I was granted permission to supply for the record?

Chairman TERRIL. This is the same motion as was made in the Consolidated case?

Mr. STEPHAN. Yes; and I ask that it be received.

Chairman TERRIL. The ruling in the previous case was that it would be received and placed in the docket in connection with this matter, but would not be made a part of the
295 record in this proceeding, so far as evidence is concerned. It will be placed in the docket.

Mr. STEPHAN. Thank you.

Mr. ADAMS. We wish to have it understood that we are not admitting the alleged facts upon which the said motion is based.

Chairman TERRIL. That is understood.

Mr. BEROL. I will call Mr. Braden.

CHARLES A. BRADEN was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. What is your full name?

A. Charles A. Braden.

Q. Where do you reside?

A. Grants Pass, Oregon.

Q. What is your business and occupation?

A. Automotive parts jobber.

Q. You are a jobber of automotive parts?

A. Yes, sir.

Q. How long have you been so occupied?

A. 2½ years.

Q. Under what name do you do business?

A. Braden Motor Parts.

Q. In the conduct of your business do you have occasion to require transportation between San Francisco Bay points on the one hand and Grants Pass on the other hand?

296 A. I do.

Q. Is the movement of such transportation from San Francisco to Grants Pass or the other direction?

A. San Francisco to Grants Pass.

Q. How frequently do you have such movements?

A. Those shipments in the past have averaged about once a week—sometimes more.

Q. And what is the average weight of your shipments?

A. Anywheres from 100 to 500 pounds.

Q. How are you receiving such shipments from San Francisco at the present time?

A. They come as far as Medford by the Oregon-Nevada-California, and from there, from Medford to Grants Pass, via the Consolidated?

Q. What time in transit at the present time is elapsed? What is the time elapsed from the time of receiving the shipment in San Francisco until it arrives in Grants Pass, having particular reference to the time when the shipments leaves San Francisco and when it arrives in Grants Pass?

A. Two days.

Q. Now, are you familiar with the application that is pending here?

A. I believe so.

Q. Do you understand that the Oregon-Nevada-California Fast Freight is offering a direct service from San Francisco to Grants Pass, making deliveries in Grants Pass the day
297 following the departure from San Francisco?

A. Yes.

Q. Is the question of time in transit of any importance to you in the matter of handling such shipments?

A. Very much so.

Q. Will you state why?

A. Well, in one case where the Forest Service orders batteries, and they call for them in a hurry, if there is an extra day's delay, it causes trouble in getting the batteries out to the forest, to the fire fighters, whereas, if we could wire for them and get them the next day, on a through service, that would be much better.

Q. Do you also buy from Portland?

A. Yes; most of our shipments come from Portland?

Q. Which is the better source of supply, the San Francisco area or the Portland area?

A. Well, there are larger sources of supply in San Francisco; they have larger stocks in the warehouses, and the rates are about the same; if we had a through service, we could make the time just about the same.

Q. How does the transportation service which you are receiving from Portland at the present time compare with the trans-

portation service which you are receiving from San Francisco?

A. It is a day sooner.

Q. If the application were granted to the applicant, to
298 offer the service as proposed, would it be of any advantage to you in the conduct of your business?

A. It would be very much to our advantage from the south; and, coming from Portland, Oregon, as I can see it, it would be an advantage, too.

Q. Will you use the services particularly from the south if the application is granted?

A. No; both ways.

Q. Both ways?

A. That is right.

Mr. BEROL. That is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. Are you utilizing the services of other motor transport carriers from Portland to Grants Pass at the present time?

A. Yes.

Mr. BEROL. May I interrupt and ask a question to clear a matter up?

Mr. ELLIS. Yes.

By Mr. BEROL:

Q. These shipments from Portland, are they largely from warehouses?

A. Practically altogether.

Mr. BEROL. I will submit that the statement that the witness gave respecting shipments from Portland are, in the first place, not responsive to the question; and, in the second place,
299 it appears that it is all intrastate in character and not involved in this case. I will therefore be willing to stipulate that the testimony of the witness regarding Portland be stricken from the record; we are relying on the testimony of this witness insofar as it involves transportation between San Francisco and the Grants Pass area.

Mr. ELLIS. Very well, I will limit my questions to that.

By Mr. ELLIS:

Q. What is the usual method of transmitting your orders to San Francisco for merchandise?

A. It depends on the time they want it in. In the past, we have had to use airmail in order to get shipments in, in a hurry, but since the train has changed the time, I understand the mail leaves on the 4:40 train, and it will get in there without airmail the next morning.

Q. In the normal course of business, you place your orders by mail?

A. Yes.

Q. In the normal day's business, what time of the day do you become aware of your need for supplies in order that you might place that order?

A. Unless it is a wire order, something that is really urgent, we generally start making up the orders by five o'clock.

Q. Do you know when that order that you make up about five o'clock reaches San Francisco?

A. Well, of course, I will have to change that a little; 300 because we have to get them ready for the train time, if we send them by train. We have to make our orders up a little earlier; we have to take the orders to the post office by four o'clock or a little thereafter, in order to get it on the train so that it gets to San Francisco the next morning by mail.

Q. Are those orders normally filled by the San Francisco house on the day—on the afternoon of the day the order is received?

A. Yes; except sometimes, on our back orders, they notify us on that.

Q. You don't always find there are stocks available to meet your orders on the day the orders are received?

A. Once in a while there is not; San Francisco carries a lot larger stocks than they do here, and it is very seldom they are out of anything.

Q. And at what time of the day, and at what dates are the orders received at your place of business, or Grants Pass, if they are filled on the day the letter arrives in San Francisco?

A. If they are filled on that day, they are received about three days later than the time we send the order in.

Q. About what time of day?

A. Between 10 and 12 o'clock.

Q. In the morning?

A. In the morning.

Q. Do you know, from your own knowledge, where the delay occurs?

A. I do.

301 Q. What is your understanding?

A. My understanding is that if the Oregon-Nevada-California truck comes into Medford the day after leaving San Francisco, sometimes before noon, and these shipments lay over until evening and the Consolidated takes them that night and then delivers them the next morning.

Q. Would it meet your needs if the services of the Consolidated were improved to the extent that they would pick up those shipments on arrival and bring them to your place of business?

A. It certainly would be an improvement; it would save a whole lot.

Q. Are you aware of the fact that the Pierce Auto Freight Lines has now been giving a direct through daily service between Portland and San Francisco since the 24th of June?

A. A direct daily service?

Q. Yes.

A. No, sir; the last time I talked with them, I believe they said it was once or twice a week.

Q. Would such a service via the Pierce Auto Freight Lines, direct to San Francisco from Grants Pass, and on to Portland, if it were given daily, and without undue delay in interchange or for other causes at Medford, meet your needs?

A. I suppose it would; but I don't know their schedules. I couldn't say truthfully, without knowing their schedules.

Q. Your primary interest—in fact, your sole interest—is
302 in avoiding unnecessary delay which you find now results from interchange at Medford as now conducted by the applicant in this case and the Consolidated Freightways?

A. From the south; yes.

Mr. ELLIS. That is all.

Chairman TERRIL. Is there any further cross-examination of this witness?

Mr. HEDGES. I have none.

Mr. FARRENS. I have a few questions.

Cross-examination by Mr. FARRENS:

Q. Have you been shipping from San Francisco wholly by truck?

A. There has been a few shipments come by the Southern Pacific.

Q. With that exception, have you been shipping wholly by the Consolidated Freightways and this applicant?

A. Yes, sir.

Q. How long have you been using the services exclusively of this applicant and the Consolidated, so far as truck service is concerned?

A. Ever since I have been in business, 2½ years.

Q. You have never patronized the Pacific Truck Express?

A. No. I asked the Pacific Truck Express once, and I believe they said it was once a week service, and I could not route my shipments to come that way. I had to have the service when I needed it.

303 Q. Do you know that at least for many months the Pacific Truck Express has been running a daily service between Portland and San Francisco?

A. No, sir; their agent never told me that.

Q. If that service went through Medford and all intermediate points daily, such as is now occurring in the service you are using, would that service be satisfactory to your needs?

A. If their schedule ran like the Oregon-Nevada-California Fast Freight did. I understand that the Pacific Truck Express is not going to be in business too long?

Mr. FARRENS. I will ask you to read the Southern Pacific Bulletin dated July 10, which is very brief.

Mr. BEROL. Just a minute. I would like to say something before it is read into the record.

Mr. FARRENS. I am not asking him to read it into the record. I am just asking him to read it for his own advice.

By Mr. FARRENS (continuing):

Q. That is a bulletin of the Southern Pacific that I have just handed you?

A. It looks like it.

Q. If that service continues to be available and is as I have indicated, a through daily service, it will satisfy your necessities?

A. You say that is a daily service?

Q. Yes.

A. So far as I know; yes.

304 Q. Let us suppose, in addition to that, the Southern Pacific train carrying freight of your type leaves San Francisco, taking freight delivered to it by 5:45 in the afternoon, arriving in Medford at 10:48 the following morning, and the Pacific Truck Express takes it off the train at that point and carries it on through to Grants Pass that morning; would that be a satisfactory service to you?

A. I don't believe I follow you.

Chairman TERRIL. Will you read the question, please?

(Question read.)

A. No; it would not.

By Mr. FARRENS:

Q. Now, in what respect would it be unsatisfactory? Let me ask you, first, would it be necessary to receive the freight at an hour later than 5:45 in the evening?

A. No.

Q. How long would it normally take a vehicle to operate from Medford to Grants Pass? What is the distance?

A. From Medford to Grants Pass?

Q. Yes.

A. 32 miles.

Q. If at 10:48 in the morning the shipment arrives at Medford and is immediately transferred to a piece of equipment of the

Pacific Truck Express and carried that 32 miles, wouldn't that arrive in sufficient time to satisfy your needs?

A. It would arrive around noon?

305 Q. Yes.

A. I don't believe so.

Q. That would be too late?

A. Too late.

Q. How early would it be necessary to receive the delivery in Grants Pass in order to be satisfactory to you?

A. Between 8:00 and 9:00 o'clock in the morning.

Q. If it is delivered after 8:00 or 9:00 o'clock it does not serve you; it does not serve you to have it delivered later than that?

A. Generally, that is correct.

Q. If the applicant's service fails to accomplish delivery prior to 9:00 o'clock in the morning, would you endorse his application?

A. You mean if the Oregon-Nevada-California Fast Freight failed to deliver at that time?

Q. If they were slower than that, and did not come in there until noon or thereabouts?

A Yes; it would.

Q. You would still endorse the application?

A. Yes; I would.

Mr. FARRENS. At this time I would like to offer the bulletin which I asked the witness to read. I realize that the offer is out of order, except in one particular, that counsel for the ap-

306 plicant has demanded that I give him, as fast as received, all information tending to show what the Southern Pacific's intentions are; and this bulletin, which was put out prior to the commencement of this hearing, which was in no sense inspired by this hearing, is the latest available information I have.

Examiner KEPHART. Who is Mr. Klein?

Mr. FARRENS. He is the General Freight Agent, in charge of all freight traffic in Oregon for the Southern Pacific.

Mr. BEROL. I will object to that on the ground that it is not an answer to the demand I made; I will object on the ground that there is nothing in this document that indicates what the Pacific Motor Trucking Company or the Pacific Truck Express is going to do; I object on the further ground that it is a self-serving declaration and not an answer to the question I asked. I think this question is getting serious, and I think counsel and counsel's client is playing games, not only with me, but with the Commission. I want to call attention to the fact that we have to consider the background of this situation. In connection with the hearing of the application of the Pacific Motor Trucking Company to acquire the Pacific Truck Express, a hearing was held in Portland, and certain testimony was given by Mr. Young, vice-president and general

manager of the Pacific Motor Trucking Company—and I am now quoting from excerpts of the official transcript.

Mr. FARRENS. I am going to object to any quotation as
307 long as counsel is objecting to the introduction of this document; and the ground of my objection is this, that our rights with respect to the Pacific Truck Express are those which are given to us by the order authorizing the acquisition, which are the rights of those of an owner and with the power to change the service at any time, subject only to the regulations of the Interstate Commerce Commission and subject to only such restrictions as the Commission sets forth in the acquisition order. It doesn't make any difference what anybody testified as to what their intentions were prior to the hearing. The Commission, even though some intentions may have been entertained at the time of the hearing as to some things that they would do, did not see fit to put those restrictions in the Order. The Order is the only guide we have, and any testimony given prior to the acquisition, in the hearing before the Commission, would be absolutely immaterial.

Mr. BROWN. Have you any information to place before the Joint Board as to what the intentions of the Pacific Truck Express are, and what they are or are not going to do?

Mr. FARRENS. That is what I am attempting to do, to the very best of my ability.

Mr. BROWN. Let it be identified.

Mr. FARRENS. All right; I will not insist on its introduction at this time.

Chairman TERRIL. It may be marked for identification as
308 "Protestants' Exhibit No. 5."

(Exhibit 5 marked for identification.)

Mr. FARRENS. That is all.

Redirect examination by Mr. BEROL:

Q. Did you discuss the nature or the type of service that was going to be offered by the Pacific Truck Express with any representative of that company?

A. No, sir; the only information I received was from Mr. Johnson, their agent at the present time at Grants Pass.

Q. He is an agent of the Pacific Truck Express at the present time?

A. Yes.

Q. At Grants Pass?

A. Yes.

Q. Where did you have that discussion with him? First, when did you have it?

A. About two weeks ago.

Q. Where?

A. It was in Grants Pass, in my place of business.

Q. Who was present besides you and Mr. Johnson, if anybody?

A. I believe both of the boys that were working for me were there.

Q. What did he say and what did you say?

A. I asked him if he was still going to have a job, and he said, "Why?" And I said, "I understand that the Pacific Truck Express is not going to continue their trucking service." And he
309 said, "They are going to continue it for a while until something definite is settled." He didn't say very much about it, but I gathered from his remarks that he understood he was going to work for the Southern Pacific for about a month.

Q. Was there anything said about the nature or character of the trucking service that was to be performed by the Pacific Truck Express?

A. I believe it was his understanding at that time——

Mr. FARRENS. Just a minute. I object to any guess made by this witness as to what an employee's understanding was. Particularly, when it is based on an assumption.

Mr. BEROL. The witness obviously can't remember the exact words. He is trying to give, as best he can, the nature and basis of the conversation. I think he is entitled to do that. He obviously can't remember the specific words.

Chairman TERRIL. Can you testify as to what he said, and not as to your understanding?

The WITNESS. Not word for word.

Mr. BROWN. You don't have to give it word for word. Just give the substance of the conversation.

The WITNESS. The substance of the conversation was that it was his understanding that they were going to transport much of the freight by rail and use the motor transport at points where there was no rail service at that time.

Mr. BEROL. That is all.

310 Mr. FARRENS. That is all.

(Witness excused.)

Chairman TERRIL. We will stand adjourned at this time until two o'clock this afternoon.

(At 12 noon hearing adjourned until 2:00 p. m.)

AFTERNOON SESSION 2:00 P. M.

Chairman TERRIL. Let us come to order, gentlemen.

Mr. ADAMS. I will call Miss Hill.

HELEN HILL was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Your name is Helen Hill?

A. Yes.
Q. Where do you reside, Miss Hill?
A. In Vancouver, Washington.
Q. What is your employment or occupation?
A. Traffic manager.
Q. For what company?
A. Washington Canners Cooperative.
Q. And what is the business of the Washington Canners Cooperative?
A. Packing of cold pack and canned goods.
Q. Does your company ship between Portland and California points?
311 A. Yes; it does.
Q. Between what California points, or to what California points?
A. San Francisco, Sacramento and Los Angeles.
Q. In other words, that is, from Vancouver?
A. From Vancouver to these points.
Q. Your plant is at Vancouver, Washington?
A. Yes.
Q. You ship from Vancouver to San Francisco, Sacramento, and Los Angeles?
A. Yes.

By Examiner KEPHART:

Q. And the other San Francisco Bay points, such as Berkeley, Alameda, and Oakland?
A. No.

By Mr. ADAMS:

Q. How long have you been in the employ of your company?
A. Four years.
Q. About what is the volume of your shipments between Vancouver and the California points you have named?
A. About four tons per month.
Q. How do you ship your shipments from Vancouver to those California points?
A. By auto freight.
Q. Do you know anything about the facilities and service of the Oregon-Nevada-California Fast Freight?
A. Yes; I do.
312 Q. Did you make any investigation of that company prior to appearing here?
A. Yes; I did.
Q. Does that play a part in your appearance here on behalf of this application?
A. Yes.

Q. Have you found them to be a reliable company?
A. Yes.
Q. Is time in transit of importance to you?
A. Yes; it is.
Q. Do your commodities require refrigeration?
A. Yes; very much so.
Q. That is, cold packed fruit?
A. Yes.
Q. What motor carrier service is available to you between Vancouver and the California points you have named?
A. California Fast Freight and the Los Angeles-Seattle Motor Express.
Q. Did you make any investigation to ascertain whether there were any other motor carriers available to you on your shipments from Vancouver to the California points?
A. Yes; I did.
Q. What was that investigation?
A. It was in the form of a letter I wrote to the Commission.
Q. The Interstate Commerce Commission?
313 A. Yes; Interstate Commerce Commission.
Q. Did you write that letter personally?
A. Yes; I did.
Q. What carrier or carriers have you used in conjunction with your shipments from Vancouver to the three California points?
A. Cascade Fast Freight.
Q. You have not used any other carrier?
A. On one shipment the Los Angeles-Seattle Motor Express.
Q. They handled one shipment?
A. Yes.
Q. Were you satisfied with the services of such carriers?
A. To a vertain degree; there was a disadvantage, however.
Q. Will you state the disadvantages to the Joint Board and the Examiner?
A. Well, we would prefer mechanical refrigeration.
Q. And those companies do not have mechanical refrigeration?
A. No; and they don't have daily service.
Q. Is daily service of importance to your company?
A. Very much so; we have our shipments that must go out immediately.
Q. What has been your experience relative to the service that you have had so far as the schedule is concerned?
A. We could only ship on fish day, on Friday. If the shipment comes in, or if the order comes in the first of the week—if we have a rush order, then we have to hold it over or wait
314 until the latter part of the week, in order to get the shipment through in good condition.

Q. Do you have any other complaint as to the services you have been receiving?

A. Well, the shipments are transferred at Fresno, I believe, to another carrier, and sometimes lay over a short time.

Q. That is, on the movements to San Francisco?

Mr. BROWN. They would not be transferred at Fresno?

The WITNESS. To Los Angeles.

By Mr. ADAMS:

Q. Do you have any other remarks concerning the existing service?

A. I don't believe so.

Q. Do your products require constant refrigeration?

A. Yes; they do.

Q. By constant refrigeration, do you mean that they cannot be out of refrigeration for a long time or for any period of time?

A. That is right.

Q. Or the product will melt?

A. That is right.

Q. Have you had any difficulties on that score in relation to your existing service?

A. Well, it holds over for quite a while. When it is hauled from Portland, we have quite a bit of trouble arranging for shipments, and it means repeated telephone conversations.

315 Q. Do you mean by that, you have to make repeated telephone conversations to get in touch with the carrier——

Mr. HEDGES. Let's not lead the witness. I would rather have you ask questions than to lead the witness.

By Mr. ADAMS:

Q. What do you mean by that statement that you have had some difficulty with telephone calls?

A. Well now, we get a wire for a shipment, and we telephone Portland for space reservations to whatever destination we want it to go to, and then we have quite a bit of difficulty arranging to get it to Portland, to connect with this freight line, in order to keep it in refrigeration during the time it is being delivered.

Q. You are here on behalf of the applicant, the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. You are supporting the application?

A. Yes; I am.

Q. Will you tell the Board and the Examiner why you are supporting this application?

A. Well, we need mechanical refrigeration; that is the most important; we need that very badly, and then we need faster service. Those are the most important things.

Q. Do you feel that the present service which is available to you is adequate to your needs?

A. No; I don't.

316 Q. Would you like to see the applicant granted authority by the Interstate Commerce Commission whereby it could perform faster service on your shipments?

A. Yes.

Q. And that is for the reasons that you gave?

A. Yes.

Mr. ADAMS. That is all.

By Examiner KEPHART:

Q. Did you say that, of the nine companies named in that letter from the Interstate Commerce Commission, giving the carriers operating between Seattle, Portland, San Francisco, and Los Angeles, only two are available at the present time.

A. Yes.

Mr. ADAMS. That is, from Vancouver.

Examiner KEPHART. That is what I mean. Of the nine named, only two are available at the present time?

The WITNESS. Yes.

Examiner KEPHART. That is the Cascade and the Seattle-Los Angeles Motor Express, Inc.?

The WITNESS. Yes.

Mr. KENT. You are interested in only one type of transportation, and that is refrigerated transportation?

The WITNESS. That is correct.

Examiner KEPHART:

Q. Did you inquire regarding the other seven?

A. I wrote to the Interstate Commerce Commission.

317 Q. And they gave you nine carriers?

A. Yes.

Q. And did you find that you could use only two?

A. Yes: from Vancouver to destination.

Q. And the others went on through and did not stop, or something of that kind?

A. Well, we need refrigeration; a great many of them, we found, did not give the refrigeration that we needed for the cold pack.

By Mr. KENT:

Q. Is it cold-pack goods that you ship, or is it frozen foods?

A. It is frozen foods; it has to be kept frozen in transit.

Q. It has to be kept frozen in transit?

A. That is right.

By Examiner KEPHART:

Q. How is the cold pack packed?

A. In tins, and in a few barrels, also.

By Mr. ADAMS:

Q. Did you have any conversation with the applicant with reference to what service they would give you on your shipments?

A. Yes; I had.

Q. Will you just explain that, and explain why you think they will give you the kind of service that you desire?

A. Now, what do you mean? I don't quite understand.

Q. Would they give you the kind of refrigeration that you want?

A. As it now stands, I don't believe so.

Q. I mean the Oregon-Nevada-California Fast Freight.
318 Have you had any conversation with them with respect to the kind of service that they would give?

A. I have inquired about their service.

Q. And they told you they would give you mechanical refrigeration?

A. Yes.

Q. When you started going into the California market, did you have any difficulty securing services at that time?

A. Yes; I did.

Cross-examination by Mr. ELLIS:

Q. To what California points do most of your products move?

A. To San Francisco.

Q. San Francisco is more important to you than Los Angeles as a market?

A. Yes; I believe so.

Q. Have you observed any substantial difference in the quality of service that you are getting to Los Angeles as compared with the service that you have been getting to San Francisco, in the past?

A. I don't understand your question.

Q. Has your service to Los Angeles been any better or any worse than your service to other destinations that you ship to?

A. Well, I just can't answer that; I don't know.

Q. You have not noticed any substantial difference in the
319 quality of service to San Francisco as compared to the quality of service rendered to Los Angeles?

A. There is not so much delivered to Los Angeles; and that wouldn't make much difference.

Q. Have you had occasion to make complaints to the carriers

concerning the character of service that they have been furnishing?

A. No. However, we have had to do a great deal of phoning into Vancouver to get our service. We have to keep our goods in condition while we deliver them.

Q. That is the service you use most; the Cascade Fast Freight,

A. Yes.

Q. That is the service you use most, the Cascade Fast Freight, which operates from Portland south?

A. Yes.

Q. How does your commodity reach the terminal of the Cascade Fast Freight in Portland?

A. No, they don't; we have to arrange for shipments from Vancouver to Portland.

Q. You do that through a local carrier?

A. As a rule.

Q. Have you ever used the services of the Consolidated Freightways?

A. No.

Q. They operate in conjunction with the applicant in this
320 case, as you know?

A. They have never solicited us.

Q. Did you know their service was available?

A. No.

Q. You were never informed that the Consolidated Freightways and this applicant, jointly, were rendering a through service with refrigerated trailers, from Portland to San Francisco, and had been doing that for the past year?

A. No; I was not.

Q. Have you—if you could load your shipments into these through trailers that moved direct from Portland to San Francisco under mechanical refrigeration, would that meet your needs?

A. We need more of this than we have, because of the fact that there is a possibility of there being a full load; and we want to get our shipments started at the time they are wanted.

Q. As I understand you, you have never called upon the Consolidated Freightways to render that kind of service to you?

A. No.

Q. And you have no experience to suggest to you that the Consolidated Freightways would not have enough refrigerated trailers to meet your needs, or that this applicant would not have sufficient trailers?

Mr. ADAMS. Just a moment, if I may. Mr. Ellis, are you contending that the Consolidated Freightways and the Oregon-
321 Nevada-California Fast Freight have run trailers from Vancouver to San Francisco?

Mr. ELLIS. No; from Portland to San Francisco.

By Chairman TERRIL:

Q. Are your shipments in truckload quantities or less than truckload quantities, or both?

A. Less than truckloads..

Q. Practically all less than truckloads, less than truckload quantities?

A. Yes.

By Mr. ELLIS:

Q. Can you state what the average of your shipments would be to San Francisco?

A. About 4,000 pounds.

Q That is, 2 tons per shipment?

A. That is right.

Q. I thought it was four tons a month, or, rather, two tons a month?

A. No; about 4,000 pounds a shipment.

Mr. ELLIS. That is all.

Cross-examination by Mr. HEDGES:

Q. I understand that the Cascade Fast Freight is handling all of your business, and has been doing so for some time?

A. Yes.

Q. Have they handled all of it, except the one shipment which you spoke of, since the first of this year?

322 A. Yes.

Q. Who advised you that the Cascade Fast Freight hauled fish, and that their service was not available except one day a week?

Mr. ADAMS. I don't think that she stated that they hauled fish.

The WITNESS. I said they hauled on fish day, Friday.

By Mr. HEDGES:

Q. I will reframe my question. Who advised you that the Cascade Fast Freight had no service, except on fish day, or Friday?

A. We found it out by shipping; we shipped by the Cascade.

Q. As a matter of fact, you are not the party who arranges for the transportation for the Washington Canners Co-op?

A. I do now.

Q. Do you select the transportation agency?

A. Yes; I do.

Q. For how long have you been doing that?

A. For some time.

Q. Who is Mr. Boddy?

A. He is my employer.

Q. Doesn't Mr. Boddy select the transportation?
A. Not now.
Q. Not now?
A. For over a year.
Q. He has not for over a year?
323 A. No.
Q. Have you ever tendered a shipment to the Cascade Fast Freight, or any other carrier, that they have refused?
A. We ship by Cascade.
Q. Have you tendered a shipment to the Cascade Fast Freight on any other day than Friday, which they have refused.

By Examiner KEPHART:

Q. By refrigeration?
A. It so happens that we have not had any reason to, since I have been in charge of the shipping.

By Mr. HEDGES:

Q. But you state for this record that the only shipments you have made by Cascade have been made on Friday?
A. Yes.
Q. You are sure of that?
A. I am.
Q. Who advised you that your shipments consigned to Frisco are transferred at Fresno, or some other point, and held over there?
A. That was the reference that I received from my employer when I took over the work; he gave me the information.
Q. And you have been so advised, also, by some representative of the applicant in this case?
A. No, sir.
Q. You are sure of that?
A. Yes, sir.
Q. By the way, how did you come to inquire of the Interstate Commerce Commission what service was available?
324 A. Well, we need more service of that kind, especially refrigerated service, and we prefer the mechanical refrigeration, as I said before, to keep our goods in good condition.
Q. At whose suggestion did you write the Interstate Commerce Commission?
Mr. ADAMS. For the sake of the record, I will say that all of these witnesses that have written the Interstate Commerce Commission had done so at our request. The applicant suggested that a letter be written. We don't deny that in the least.
Mr. HEDGES. That is what I am trying to find out.

By Mr. HEDGES:

Q. All these things about the service of the Cascade Fast Freight, you have ascertained that from other sources than from representatives of this applicant?

A. Yes.

Q. Do you know why your company tenders shipments over to Portland to the Cascade rather than at Vancouver? Do you know?

Just answer the question.

A. Will you state that again?

Mr. HEDGES. Will you read it, please?

(Last question read.)

A. Yes.

By Mr. HEDGES:

Q. Why?

A. There is no service over in Vancouver; it is in Portland.

By Examiner KEPHART:

Q. You mean the Cascade Fast Freight does not have rights to get the products over there?

325 A. They do not go over there for our tonnage.

By Mr. HEDGES:

Q. Do you know why they do not?

A. Because we do not have sufficient weight.

Q. Do I understand by that, that the Cascade have refused to pick up your tonnage because you do not have sufficient weight?

A. I can't say that; that is the way I understand it, that is what I understood they have done; they don't come over and get it unless it is a certain number of pounds.

By Mr. BROWN:

Q. Did you ever ask them to come to Vancouver to pick up any shipment?

A. Not since I have been in charge.

By Examiner KEPHART:

Q. You have never asked them to come over and pick up any of your shipments?

A. No; not since I have been in charge.

Q. And you don't know whether they have ever done it?

A. Nothing more than I have learned from my employer.

Q. Why not try them out?

By Mr. ADAMS:

Q. Do you know whether your employer has inquired as to whether they would do so?

A. I couldn't say.

By Mr. HEDGES:

Q. Do you send those shipments over in your own equipment?

A. Sometimes, if we have a truck available.

Q. Isn't this a fact, that practically all of the shipments
326 tendered to the Cascade have come over to Portland in your own equipment?

A. Yes.

Q. As a matter of fact, they have come over in your own equipment in order to take advantage of an allowance that is provided in the tariff for the shipper when he delivers the goods to the terminal?

A. I don't quite understand.

Q. Do you know?

A. I don't understand.

Mr. HEDGES. Will you read the question please?

(Question read.)

By Examiner KEPHART:

Q. To the Carriers' terminal?

A. I don't know about that.

By Mr. HEDGES:

Q. You would not know whether that was an arrangement made by Mr. Boddy since the first of this year?

A. No; I would not know.

Q. Have you ever been advised that the Cascade Fast Freight has, at its terminal in Portland, a cold box for the purpose of holding goods under refrigeration from the time they are received at the terminal until they are shipped, and that the box is of sufficient size to hold any shipment up to 4,000 pounds of any commodity?

A. They keep our shipments in good condition, but we prefer mechanical refrigeration.

327 Q. Why do you prefer mechanical refrigeration, if you have never used any of it?

A. Yes; we have.

Q. Whose services have you used?

A. I don't mean in a truck; in our plant.

Q. Then do I understand that you have never had any experience in the use of mechanical refrigeration by a transportation company?

A. No; I don't think there is such a service now.

Q. Would any of your testimony be changed at all if you knew that the Cascade Fast Freight had a daily service out of Portland, and have had for a considerable period of time?

A. No; I don't believe it would.
Q. Your testimony would still be the same?
A. Yes.

By Examiner KEPHART:

Q. If this was a refrigerated service, it still would be the same?
A. It is refrigerated.

By Mr. HEDGES:

Q. Your testimony would still be the same?
A. Yes.
Q. Then your statement that you made that the Cascade service was only available on fish day, or Friday, would have no importance?
A. To some extent.
Q. Did you appear here with the authority of Mr. Boddy?
328 A. Yes, sir; I did.
Q. Did you ask for permission to appear here, or did he direct you to appear here?
A. He directed me.
Q. He directed you to appear here?
A. Yes.
Chairman TERRIL. Any further cross?

Redirect examination by Mr. ADAMS:

Q. Have any carriers other than the Cascade Fast Freight solicited your business?
A. Well, the Los Angeles-Seattle Motor Express.
Q. Is that the only other one?
A. That is the only one.
Mr. ADAMS. Thank you.
The WITNESS. You are quite welcome.
Chairman TERRIL. That appears to be all.
(Witness excused.)
Mr. BEROL. I will call Mr. Taylor.

FRANK L. TAYLOR was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name?
A. Frank L. Taylor.
Q. Where do you reside?
A. In the City of Reedsport, Oregon.
329 Q. What is your business or occupation?
A. I am in the hardware and lumber supply business.
Q. How long have you been so occupied?
A. 22 years this spring.

Q. All of that time in Reedsport?

A. Yes.

Q. In the course and conduct of your business have you had occasion to make shipments to or from the San Francisco Bay area?

A. I have, sir.

Q. And what do those shipments consist of?

A. Hardware and kindred lines.

Q. Are those shipments from the San Francisco Bay area destined to Reedsport?

A. Yes.

Q. You don't have any shipments from Reedsport to San Francisco?

A. Very little.

Q. How frequently do you ship, Mr. Taylor?

A. About once a week.

Q. What is the average size of those shipments?

A. I would say about 500 pounds.

Q. They consist of general hardware and building supplies; is that correct?

A. That is correct.

Q. What means of transportation have you used up to
330 the present time in effecting your shipments?

A. We have used water transportation to the City of Marshfield and from there on by the Roy Peterson truck line.

Q. Is there any water service available to you at the present time?

A. It is very inconsistent, on account of strike conditions.

Q. With reference to the Consolidated Freightways service, what can you tell me as to the time in transit between San Francisco and Reedsport? In the first place, have you used that service?

A. Yes; I have.

Q. What is the time in transit between San Francisco and Reedsport?

A. I would say, it would be about 18 hours into Medford; from there it goes to the junction point into the city of Eugene, and then by a small truckline into the city of Reedsport. I would say that it took an average of about 50 hours.

Q. Are you familiar with the nature of the application that is pending here?

A. Will you be a little bit more explicit?

Q. Have you been informed of the character of the service offered by the Oregon-Nevada-California Fast Freight under its application pending here?

Mr. Farrens. Just a moment, please. I wonder if counsel does not want to correct the testimony of the witness. The

331 president of the company on the witness stand said the service from San Francisco to Medford was 14 hours, and this gentleman says 18 hours.

The WITNESS. I will concede the difference in time.

Mr. BEROL. I was more interested in the time between San Francisco and Reedsport.

The WITNESS. Now?

Mr. BEROL. Perhaps the reporter had better read the question.

(Question read as follows: "Have you been informed of the character of the service offered by the Oregon-Nevada-California Fast Freight under its application pending here?")

A. The inference is that they will give 20 hours from San Francisco to Reedsport.

By Mr. BEROL:

Q. Would that be of any interest to you?

A. Yes.

Q. Is there any service from San Francisco to Reedsport at the present time that offers a comparable service?

A. There is not.

Q. Will you state why such a service would be of advantage to your company?

A. Well, it means shorter stocks. San Francisco is a point where merchandise is available at a cheaper figure, and I think that would mean that we could have shorter stocks, because we could get better service.

332 Q. When you say San Francisco is a point where merchandise is available at a cheaper figure, what do you mean?

A. There are a lot of concerns there, and they have a larger variety and better stock, at a better figure.

Q. You are comparing San Francisco with Portland, is that right?

A. That is correct.

Q. What is the character of the transportation service that is available to you from Portland as compared with San Francisco?

A. It is available in 24 hours.

Q. From Portland?

A. That is correct.

Q. Is it your idea that you should be accorded the same or a comparable transportation service from San Francisco to that which is accorded from Portland?

A. I am sorry.

Mr. BEROL. Will you read the question, Mr. Nelson?

(Question read.)

A. I will answer this way: in this day and age, service is quite

an item, and it would be very beneficial to have comparable service.

Q. How about the matter of transfer of lading at Medford? Is that a matter of any consequence to you in the handling of your commodities?—

A. As I see the present-day shipping, it is handled about six times, whereby, if the service you offer is carried out, it
333 will be handled about two times. That is quite a big advantage, allowing the merchandise to come in in better condition, in much shorter time, with the possibilities of lower rates. Naturally, handling is an expense, and, another thing, there would be less clerical work involved, for the simple reason that there is considerable breakage in handling, potentially. That is about as clear as I can be on that.

Q. If the service which the applicant seeks to perform here is authorized by the Commission, will you use it?

A. Yes, I will.

Mr. BEROL. That is all. You may take the witness

Cross-examination by Mr. ELLIS:

Q. The type of merchandise that you ship from San Francisco is not such as to be particularly susceptible to damage through handling, is it?

A. Well, it is rather diversified; hardware, bridge parts, glassware, and so forth; some of it is susceptible to breakage, particularly glass parts and things of that kind. There are a lot of things that are brittle, you know, and do not stand much shuffling around.

Q. But, generally speaking, the bulk of your merchandise can stand handling to a considerable extent without breakage?

A. That is correct.

Q. And I assume you have not had an unusual amount of breakage resulting from the handling of your shipments as they
334 have been handled in the past?

A. Not a great deal; about once in every four invoices there would be a claim.

Q. And those claims would be small?

A. Insignificant other than the clerical time lost.

Q. Now, you have testified, in substance, that you would like to have a comparable service out of San Francisco to that which you get out of Portland?

A. That is correct.

Q. Now, what are the relative distances from Reedsport to Portland as compared to Reedsport to San Francisco?

Mr. ADAMS. Will you read the question, please?

(Question read.)

A. I don't know.

Q. It is much farther to San Francisco than it is to Portland?

A. Yes.

Q. You were induced to testify, substantially, were you not, that you would like to have comparable service out of San Francisco as compared to Portland?

Mr. BEROL. That is objected to as assuming facts not in evidence. There isn't any evidence that anybody was induced to do anything. If you will reframe the question and omit the inducement feature I will have no objection.

Mr. ELLIS. I will do that.

By Mr. ELLIS:

335 Q. I understood you to testify to the effect that you would like to have the service from San Francisco relatively the same as you are receiving now out of Portland? Can you explain just what you had in mind? You have stated that the distance is greater to San Francisco than to Portland.

A. Yes; I will. The simple reason is that, if I had the invoices to present to you, it would be simple. If the Commission desires to have them, they are available. I might say, in instances of heavy commodities, there is more general stocks kept in San Francisco, and there is a differential of from 5 to 20 or 23 percent in favor of San Francisco.

Q. Are you purchasing more of your supplies from San Francisco today than you are from Portland?

A. I am not.

Q. Then, not withstanding the difference in prices favoring San Francisco, as I understand you, the service you get out of Portland is enough better so that you are patronizing the Portland jobbers?

A. That is correct.

Q. Now, let us get down to the question of distance. You have stated the distance is greater from Reedsport to San Francisco than it is from Portland to Reedsport. What is the difference in distance, comparing the two points, San Francisco and Portland?

A. The distance from San Francisco to Reedsport is 584 miles, and, according to the maps, from Portland to Reedsport is
336 211 miles if you go via Eugene, and 186 miles if you go via the Pacific Truck or via the Coast route.

Q. In other words, via the shortest route, Portland is approximately one-third of the distance from Reedsport as compared with Reedsport to San Francisco?

A. Approximately, yes.

Q. If you are able to get service out of San Francisco, the

elapsed time of which was relatively the same as the distance in mileage, would that meet your requirements?

A. I don't grasp that exactly. But any beneficial service or any service to be beneficial, would have to give us a saving in time.

Q. Considering the fact that San Francisco is three times as far from Reedsport as Portland, is your service at the present time not relatively the same?

A. It is not.

Q. You are not saying that your service takes more than three times as long out of San Francisco as it does out of Portland?

A. I would say it does at present.

Q. You would say it does?

A. Yes.

Q. Do you patronize, or have you used the services of Roy Peterson's truck line?

A. Yes.

Q. Between what points does he operate?

337 A. Marshfield, North Bend, and Reedsport.

Q. He has been serving that territory for some number of years, has he not?

A. Correct.

Q. Have you any testimony to the effect, or, rather, in your testimony have you given any consideration to the possible effect which this class of competition might have on his ability to continue to operate?

A. That has grown to be little or nothing. Mr. Peterson has been picking up from the boat transportation which has been curtailed somewhat. Many of our shipments have been coming up on the Consolidated, I presume, to Medford and thence to Eugene and back to Reedsport, which has eliminated Mr. Peterson.

Q. You think he has already been eliminated?

A. He has, unless there is a truck service into Marshfield; I am not quite familiar with that.

Q. If he has not now been obtaining enough freight through his truck connections to maintain that service, and you and other merchants of Reedsport discontinue your present course of shipments over his line, aren't you fearful that may have the result of completely putting him out of business?

A. Speaking frankly, Marshfield is somewhat of a little shipping point, or jobbing point; it serves about 30,000 people down there. The tankers come to the City of Marshfield, and from the City of Marshfield, many shipments are made to agencies at

338 Reedsport and other towns. I assume the wholesale grocers, automotive supply companies, and oil companies, and there may be others that do some jobbing out of there. There is a likelihood of Mr. Peterson continuing his business with them.

Q. I assume that you will admit it is in the public interest and desirable that his services continue?

A. That is correct.

Q. You wouldn't want anything to happen here that would impair his right to service, or his ability to serve?

A. That is right.

Q. How about the Smith Truck Line? Does it operate from Eugene to Reedsport?

A. Yes.

Q. Has that line been in existence for some time?

A. Through its predecessor; yes.

Q. Is that of any importance to the community?

A. Mostly to the rural district.

Q. To you and the other merchants, similarly situated, do you not find his services convenient?

A. That is correct. Some service is rendered through the Pacific Truck Express, also.

Q. I assume you would expect this Board and the Commission to take into consideration any effect which this proposal might have upon the continuance of the service of those two local carriers?

339 A. Yes.

Mr. BEROL. I will object to that as incompetent, irrelevant and immaterial as to what this witness assumes what he might expect the Board to do. That certainly would have no bearing on this case.

Mr. ELLIS. It has been answered.

Mr. BEROL. I move that the answer be stricken.

Chairman TERRIL. Will you read the question and the answer?

(Question and answer read.)

Chairman TERRIL. The objection is overruled.

Mr. ELLIS. That is all.

Chairman TERRIL. Is there anything further from this witness? If not, you may step aside.

(Witness excused.)

Mr. BEROL. I will call Mr. Dunn.

ELLIE G. DUNN, was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. State your full name for the record.

A. Ellie G. Dunn.

Q. Where do you reside?

A. Reedsport.

Q. You are the Mayor of Reedsport?

A. Yes, sir.

Q. What is your business?

340 A. Dry goods.

Q. Incidentally, what is the population of Reedsport?

A. I think it is about 1500 people, but it serves a community of about 4,000 people or better.

Q. Are you in the dry goods business?

A. I am.

Q. How long have you been so occupied?

A. 16 years.

Q. In the conduct of your business, do you have any occasion to make shipments to or from the San Francisco Bay area?

A. We do.

Q. And what do those shipments consist of?

A. Ready to wear goods, dry goods, general merchandise found in a dry goods store.

Q. How frequently do such shipments move?

A. We probably have from one to two shipments a week.

Q. What would be the average weight of such shipments?

A. In some instances, it would be from 50 to 400 pounds; possibly more at certain times.

Q. Were you present and did you hear the testimony of the previous witness, Mr. Taylor?

A. I heard a part of it; yes.

Q. Did you hear his testimony with respect to the manner in which he receives his shipments?

A. I think he said it went from Eugene and back to Reedsport.

341 Q. Yes.

A. Yes; I heard that.

Q. Has your experience been the same?

A. My experience from San Francisco is over the Southern Pacific; it goes to Eugene and then back; and we have the same delay.

Q. What is the time in transit?

A. I would say three or four days.

Q. Is the time in transit of any consequence to you?

A. Yes; it is of considerable consequence; for fill-in service, it makes quite a bit of difference if the service is faster. We need faster service.

Q. Do you also buy in the Portland market?

A. We do.

Q. Did you hear the testimony of Mr. Taylor with respect to his experience in San Francisco, referring to the fact that he had a larger and better market in San Francisco for his business?

A. Yes, sir.

Q. Is the same situation true in your business?

A. It is true.

Q. Are you familiar with the character of the service that is proposed by the applicant here?

A. I understand we would have a 20-hour service.

Q. From San Francisco to Reedsport?

342 A. From San Francisco to Reedsport, by a truck movement.

Q. Is that kind of service available to you by any carrier at the present time?

A. From Portland?

Q. From Portland only?

A. That is correct.

Q. Is there any comparable service available to you from the San Francisco Bay area?

A. No.

Q. If such service were instituted and made available to you, would it be of any assistance to you in the conduct of your business?

A. Yes.

Q. You would use it?

A. We would.

Q. Is it your desire that that service be made available to you?

A. It is.

Mr. BEROL. You may take the witness.

By Chairman TERRIL:

Q. Are these shipments from the South now being handled by a motor transport?

A. By rail, some of the heavier shipments.

Q. Do you use the motor truck at all at the present time on the shipments from the San Francisco Bay area?

A. Very seldom, because the service, as I say, is Eugene

343 and back.

Chairman TERRIL. You may cross-examine.

Mr. ELLIS. No questions.

Mr. ROBERTS. No questions.

Mr. HEDGES. No questions.

Mr. FARRENS. No questions.

Chairman TERRIL. Thank you. You may be excused.

(Witness excused.)

Mr. BEROL. I will call Mr. Fisher.

FRANCIS C. FISHER was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you give your full name to the reporter?

A. Francis C. Fisher.

Q. Where do you reside, Mr. Fisher?

A. Portland.
Q. What is your business or occupation?
A. The Fruit and Produce Business.
Q. And what is the name of your company?
A. Mutual Fruit Company.
Q. And what is your position with that company?
A. I am a salesman of the company.
Q. How long have you been so occupied?
A. I have been with them about 3½ years.

Q. Now, in the conduct of your business, are you en-
344 gaged in making shipments to or from points in California?

A. We do.

Q. Do you get any shipments from the San Francisco Bay area?
A. Yes.
Q. Do you get any shipments from Sacramento?
A. Yes.
Q. Now, particularly respecting Sacramento, what is the character of the shipments that you receive from Sacramento?
A. Well, we have just finished drawing asparagus out of that district.
Q. What time of the year do you receive asparagus from that district?
A. From February to April.
Q. From February to April?
A. That is right.
Q. During the period of receiving asparagus shipments from Sacramento, approximately how frequently do they move?
A. Practically every day.
Q. What would be the average weight of the shipments?
A. Well, at the peak of the movement, it would be from 150 to 200 boxes a day.
Q. And what would be the weight of a box of asparagus?
A. It would average between 35 and 40 pounds.
Q. What commodities do you receive from or through the San Francisco Bay area district?

345 A. What was that?

Mr. Berol. Will you read the question?

(Question read.)

A. Well, we draw in artichcoke—I believe Salinas is near there; lettuce, cabbage, and all kinds of mixed vegetables out of there.

By Mr. Berol:

Q. Are those shipments seasonal or are they during the whole year?
A. We draw from California practically throughout the whole

year; we draw some commodities throughout the year; not always from the same locality throughout the year, but from different localities at different times.

Q. Are you able to give me an idea as to what the average monthly tonnage would be throughout the year?

A. Not in tonnage; I am sorry I do not have that here. However, I would say that I would be safe in saying that 75 per cent. of our volume would be drawn out of there.

Q. What would that be as an average? Would that average as high as 30 to 40 tons a month?

A. It would be more than that.

Q. More than that?

A. Yes.

Q. Is the character of the service that has been offered by the applicant here a service that has been explained to you?

A. It is.

Q. And do you understand that it is a through refrig-
346 erated service, leaving San Francisco in the evening and arriving in Portland the following evening, leaving Sacramento in the evening and arriving in Portland the following evening; is that your understanding?

A. That is right.

Q. Let me ask you: in connection with the conduct of your business, what is the busiest part of the day in which you perform your business?

A. Our business starts at five o'clock in the morning.

Q. Normally, when is the bulk of your business done?

A. The first couple of hours in the morning.

Q. From five until seven in the morning?

A. Right.

Q. Now, if the equipment of the Oregon-Nevada-California Fast Freight were to arrive in Portland at five, six or seven or eight o'clock in the evening, would your company be open during those hours to receive that traffic?

A. We are open at that time.

Q. In receiving your shipments from California at the present time, when do you receive them with respect to the time of departure from California?

A. Well, I can illustrate that by saying that where they pulled out of there last night, it would be tomorrow morning before delivery is made.

Q. Is there any service available to you at the present time
347 that will leave San Francisco or Sacramento in the evening and make delivery available to you the following evening?

A. None that I know of.

Q. Would such a service be valuable to you in the conduct of your business?

A. It would be.

Q. Why?

A. We would have this merchandise on hand at five o'clock in the morning when it could be sold; as it is, it is sometimes around eight o'clock before it arrives.

Q. Is a service such as proposed here, a service that you would use, if instituted?

A. Yes.

Q. Is it your request that the services of this applicant be made available to you?

A. Yes.

Mr. BEROL. You may take the witness.

By Chairman TERRIL:

Q. How much of this volume moves in truck or trailerload lots?

A. Of course, at the present time, not as much; not as much out of the South. Our truck movements at the present time, most of them, come out of Yakima.

Q. Referring to the movements from California points, how much of that is in truckload lots?

Mr. BEROL. I take it that question for throughout the year?

348 Chairman TERRIL. Yes. I want to know what the movement has been in the past.

The WITNESS. This particular time of year, we are not drawing very many shipments from there; however, a little later on truck movements will certainly move.

By Chairman TERRIL:

Q. Do they move in truckloads or less than truckloads?

A. Our movements are truckloads?

By Examiner KEPHART:

Q. Do you receive any less than truckload lots?

A. Oh yes; less than truckload shipments are received.

Q. Many of those?

A. In the past, there have been quite a few.

Q. The greater proportion is what, truckloads or less than truckloads?

A. Truckloads.

By Chairman TERRIL:

Q. How much of those must be refrigerated?

A. Well, it helps all right, except oranges and lemons and bananas.

Q. Do you control the routing at this end?
A. Myself?
Q. Does your company control the routing of the shipments?
A. Yes.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ELLIS:

Q. I assume your products are not of a type which
349 require extremely low temperatures?
A. How low?
Q. Well, as low as frozen berries?
A. No.
Q. Have you had occasion in the past to use the normal type of refrigerated equipment, which is refrigerated with either wet or dry ice?
A. From time to time, we have had wet ice.
Q. You don't use dry ice to any extent on your commodities?
A. No, sir.
Q. On your wet ice refrigeration, that has met most of your needs, hasn't it?
A. From time to time we have had considerable trouble with it.
Q. Most of your shipments in the past have been handled with that type of refrigeration, have they not?
A. With wet ice?
Q. Yes.
A. Yes.
Q. Are you using at the present time the joint service of the Consolidated Freightways and the applicant in this case?
A. We used it during the asparagus season.
Q. Did you find, so far as the condition of your product is concerned, that it was pretty well handled? Did you find it was pretty well taken care of?
A. This past season?
350 Q. Yes.
A. No; it was not very good.
Q. It was not very good?
A. Really, it was not.
Q. Do you know whether or not your products moved in these through refrigerated trailers that originate at San Francisco and come through to Portland direct?
A. Do I know if they were?
Q. Were they? Did your products originate in these through trailers, refrigerated trailers?
A. The Consolidated delivered to us at our place of business

in one of their town trucks; I don't know how it came into Portland.

Q. Was that a full truck or trailerload lot?

A. No; not the asparagus.

Q. Have you used that equipment, or do you know whether any of your shipments have moved in that equipment?

A. In the Consolidated equipment?

Q. In the through trailer equipment?

A. I don't know what the through trailer is.

Q. You don't know that such a service has been available?

A. Well, we have hauled potatoes from the Bend country in trailers.

Q. You mean the Consolidated has?

A. Yes.

Q. You don't know what equipment is handling your
351 business from the south, or has been handling your business from the south?

A. No.

Q. Is there any advantage to you in having shipments arrive at six or seven o'clock in the evening as compared with four o'clock in the morning—shipments coming in from the south?

A. Let's go back to asparagus. Yes, definitely.

Q. In the case of asparagus, you would like to have the shipments arrive in the evening?

A. We are not there at four o'clock. We are there at five, and we don't want to be unloading freight at that time; we want to be selling our merchandise at that time; we don't want to be at our warehouse working at that time, and that is why it is a matter of importance to us to have this through service that arrives there in the evening.

Q. I assume you are not particular interested in how this better service is provided so long as you may have the service provided the second morning, leaving San Francisco one evening and arriving here the next evening before closing hours?

A. There has not been anyone giving it to us in the last two years.

Q. That is what you want, and you don't care who gives it to you?

A. Of course, we want to have the privilege of using the truckline that we like.

Q. Is it the service that you want, or do you wish to choose the particular carrier to give you that service?

352 A. There is no truckline at the present time that does it.

Q. Are you appearing here to favor some particular line, or is it more important to have a satisfactory service afforded?

A. If these people——

Chairman TERRIL. Can't you answer the question? He is asking you a direct question.

By Mr. BEROL:

Q. Do you understand the question?

A. No; I don't.

Chairman TERRIL. Read the question to the witness, Mr. Reporter.

(Question read.)

A. We are particular who hauls it; it has to be a reliable carrier.

Mr. ELLIS. That is all.

By Examiner KEPHART:

Q. If the carrier is reliable and the service is satifactory, that is as far as you are interested in it?

A. At the present time, we would favor this company here that this man represents.

Examiner KEPHART. We are not caring particularly who you favor. If the service is satisfactory and the carrier is reliable, that is what the Interstate Commerce Commission is interested in. Would that meet your needs?

The WITNESS. Yes.

353 Cross-examination by Mr. HEDGES:

Q. Mr. Fisher, how long have you been in the fruit and vegetable business?

A. About 11 years.

Q. I would be interested in knowing what your ideas are on the type of refrigeration that is required in moving vegetables: wet ice, dry ice, or mechanical refrigeration, and why?

A. I am sorry I can't give you the information, I don't know enough about refrigeration.

Mr. HEDGES. That is all I have.

Cross-examination by Mr. FARRENS:

Q. If it should develop to the satisfaction of the Interstate Commerce Commission in this case that there is no reason why this applicant and the Consolidated Freightways, operating together, connecting at Medford, should not give you precisely the same service which you have been promised by this applicant, and they did give you that service, would that be satisfactory to you?

A. I would have to be.

Mr. FARRENS. That is all.

Redirect examination by Mr. BEROL:

Q. You mean that it would have to be from the standpoint that nothing better was available?

A. That is right.

Q. You would have to take it?

A. There would be nothing else to do.

354 By Examiner KEPHART:

Q. If you got what you wanted, that would satisfy your wants, would it not?

A. It would have to.

Q. You would be satisfied if the service was satisfactory to you, wouldn't you?

A. Well——

Examiner KEPHART. I think the question answers itself.

The WITNESS. If you tell us what we are going to have, we have to take it or leave it; we are not going to leave it in that case.

By Mr. FARRENS:

Q. That was not the intent of my question, what you would be forced to take. What I am trying to find out, would it be equally satisfactory to you if you got a through joint service of this applicant and the Consolidated, with through refrigerated units operating from San Francisco to Portland, and the same time elapsed in transit, and the same delivery time to you, wouldn't that be just as satisfactory as the service proposed?

A. It would, but can't we give it to the carriers we prefer?

Q. That does not exactly answer my question.

A. But can they give that service?

Q. If they can't, my question doesn't mean anything. If they can, your answer is what?

A. Yes.

Q. Your answer is "yes"?

355 Mr. FARRENS. That is all.

Chairman TERRIL. That seems to be all.

(Witness excused.)

Mr. BEROL. Mr. Frink.

S. FRINK was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you give your full name to the reporter?

A. S. Frink.

Q. Where do you reside?

A. Where do I reside?

Q. Yes.

A. Seattle, Washington.

Q. With what company are you connected?

A. The Washington Iron Works.

Q. In what capacity?

A. As assistant buyer.

Q. You are a stockholder of that company?

A. Yes; I am.

Q. Now, does your company have any shipments moving between Seattle on the one hand and points in California on the other hand?

A. Yes; we do.

Q. To what points in California do you make shipments?

A. We are making shipments to Chico, Medford, Eu-
356 gene, Gold Hill, Pleasant Creek, and as far into Northern California as Oakland and San Francisco.

Q. What do your shipments consist of?

A. Chiefly complete machinery, standard parts, equipment, mill supplies.

Q. The Washington Iron Works are manufacturing such commodities?

A. They are manufacturing and also job many of those commodities.

Q. What do you manufacture?

A. We manufacture now, chiefly, mining machinery, gold dredges, and we job structural iron, boilers; we do a lot of that forge work.

Chairman TERRIL. Heavy machinery, generally?

The WITNESS. That is right.

By Mr. BEROL:

Q. Can you tell me as to the volume of the shipments moving from the City of Seattle to southern Oregon and California points?

A. From 15 to 20 tons per month; that tonnage is increasing right along.

Q. That, I assume, consists mostly of less than truckload shipments?

A. Yes; with the exception of where we have to hire a trucking company to take a load of about 20,000 pounds, or something like that.

Q. Have you stated that these shipments move in less
357 than truckload shipments and equal from 15 to 20 tons a month?

A. Yes.

Q. Do you understand the proposal that is offered here by the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. Do you understand that they propose to run their equipment between Portland and San Francisco and intermediate points, and that they propose to connect at Portland with carriers operating between Seattle and Portland?

A. Yes; I do.

Q. Are you personally familiar with the methods of shipment now being used by your company?

A. Yes; I am.

Q. Are you personally in charge of those shipments?

A. No; I am not.

Q. And who is the individual in your company that has charge of the shipments?

A. The No. 1 man would be the chief clerk, J. J. Zirn.

Q. Was he able to be here today?

A. No; he was not.

Q. And is that why you are here?

A. Yes; on behalf of the company.

Q. By whom were you authorized to appear?

A. By Mr. F. G. Frink.

Q. And what is his position in the company?

358 A. Vice-president and secretary.

Q. Do you understand what is being offered here through this service is second-morning delivery to all the points indicated in southern Oregon and all California north of Oakland and San Francisco?

A. Yes.

Q. Is that the kind of service your company is desirous of obtaining?

A. Yes.

Q. If such a service is authorized and instituted, will you use it?

A. Yes.

Q. With respect to the time of operation of your company in Seattle, during what hours does your company do business?

A. Normally from eight o'clock in the morning until 5:30 in the evening, and, with the addition of a night shift, we can now make shipments from the morning until about midnight.

Q. You are available to make shipments up to midnight?

A. Up to about 11:30 or midnight.

Q. 11:30 or midnight?

A. Yes, sir.

Q. If the service is authorized and instituted, you will use it?

A. Yes.

Q. You will use it?

A. Yes.

359 Mr. BEROL. Take the witness.

Cross-examination by Mr. ELLIS:

Q. On full truckload lots, you use the services of for hire carriers?

A. Yes.

Q. In your estimate of 15 to 20 tons a month, did you take into account only the shipments by way of regular trucklines, or did you include all your shipments, including the large lots?

A. I included the lcl shipments by auto freight only.

Q. How is your freight moving at the present time?

A. Our freight is moving by the Pacific Highway Transport, Consolidated, Los Angeles-Seattle Motor Express, by way of connecting lines between Seattle and Portland.

Q. That is the Seattle-Los Angeles Motor Express which gives you a through service from your place of business to California points, without the necessity of an interchange at Portland?

A. That I could not confirm.

Q. Do you know whether or not any of the carriers now serving you transfer their freight at Portland?

A. Yes; that is the general information around the plant, that that is the case.

Q. Have you experienced any greater delay or difficulty in connection with the carriers who interchange at Portland than you have with those who have direct service through?

A. We have had delays. I believe the delay is occasioned
360 at Medford; that is where the connecting line joins up.

Q. That is where some of them connect. The question is whether or not you have observed any particular difference in the quality of service as between the thru carriers and those that connect at Portland?

A. I have noticed the delays where the service connects.

Q. You understand the proposal of this applicant is to give service through a connecting carrier, and that shipments via your line will have to be interchanged with other carriers at Portland, do you not?

A. Yes.

Q. I take it from your appearance here that you see nothing objectionable in that interchange or transfer of freight?

A. How is that?

Q. Between the Oregon-Nevada-California Fast Freight and the connecting carrier which transports it from Seattle to Portland?

A. I see no objection.

Q. What carrier would that be that would transfer the freight from Seattle to the Oregon-Nevada-California Fast Freight at Portland?

A. That moves via Lee & Eastes or the Pacific Highway Transport; it might be Consolidated.

Q. Do you think the plan of interchange or transfer——

Mr. BEROL. I am willing to stipulate that it probably won't be the Consolidated.

361 By Mr. ELLIS:

Q. The plan of interchange at Portland would not constitute such an obstacle as to prevent the rendering of good service to you so long as the interchange is made expeditiously?

A. That is correct.

Q. I assume that all you are interested here is to obtain a faster service, if it is practical to obtain it?

A. We want the service, whether it is profitable to the carriers or operators or not; we want quicker service.

Q. You are not interested in whether it is profitable to the operators, but you are interested in the service, and you don't care who gives it to you?

A. That is right.

Q. If the same type of service could be effected by improving the interchange arrangements between existing carriers so as to eliminate the time lost at interchange points, that would adequately meet your requirements?

A. Yes.

By Examiner KEPHART:

Q. Do you do any shipping via the Cascade Fast Freight?

A. I don't know of any line by that name.

Q. Or by the Pacific Coast Motor Freight?

A I don't know of any by that name.

By Mr. ELLIS:

Q. Whose services do you use to southern Oregon points at the present time?

362 A. We use, as a rule, the Pacific Highway Transport.

Q. Have you ever had occasion to use the services of the Pacific Truck Express?

A. No; I don't believe we have.

Q. Have you ever used the services of the Pierce Auto Freight Line?

A. I believe we have.

Q. The Pacific Highway Transport connects with the Pierce Auto Freight, and the two lines together take your shipments to the point of destination in southern Oregon?

A. I assume that is the case.

Q. Has that been a satisfactory service?

A. That is the best that we could get.

Q. Have you ever made any complaints concerning that service?

A. We probably have; our customers have, anyway.

Q. Do you have any recollection of any customers complaining?

A. In looking over the letters regarding these delays, customers ask us for tracers, or we have to send tracers through to find out what is the cause of the delay.

Q. Those are regular things in the course of business?
A. Yes.
Q. Sometimes delays are occasioned by reason of the fact that the machinery is not ready to ship from your plant?
A. Sometimes.

Mr. ELLIS. That is all.

363 Chairman TERRIL. Any further cross-examination?

Cross-examination by Mr. FARRENS:

Q. Mr. Frank, I have been listening carefully to your testimony. Am I right in assuming that if one interchange is necessary in handling your merchandise southbound, it wouldn't make any difference to you as between what two reliable companies the interchange is effected?
A. No.
Q. Or at what point it was effected, provided it was done expeditiously?
A. It wouldn't make any difference.
Mr. FARRENS. That is all.

By Chairman TERRIL:

Q. Of the 15 to 20 tons moving each month, is that moved by motor transportation at the present time?
A. Yes.
Mr. BEROL. I think that is all. I thank you very much.
(Witness excused.)
Mr. BEROL. I will call Mr. Shook.

OLIN SHOOK was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you give your full name to the reporter, Mr. Shook?
A. Olin Shook.
Q. Where do you reside, Mr. Shook?
364 A. Albany, Oregon.
Q. Albany is located about 75 miles south of Portland?
A. Right.
Q. What is your business or occupation?
A. Produce and implements.
Q. By "Produce," what do you mean? What kind of produce, particularly?
A. Poultry and eggs.
Q. By "Implements" what do you mean?
A. We handle the McCormick-Deering line, and the International Trucks.
Q. Do you have any occasion to make shipments to or from the San Francisco Bay area and Albany?

A. We ship from Albany to California.
Q. Albany to California?
A. That is right.
Q. You say you handle International Trucks?
A. Yes.
Q. Have you ever sold any to this applicant?
A. No, sir.
Q. That is not why you are here testifying?
A. No.
Q. Have you had any inducements to sell them trucks?
A. Well, not as yet.

Q. Well, with respect to the movement of produce to
365 California points, to what points do they move?

A. San Francisco and Los Angeles.
Q. How frequently do you have movements to San Francisco?
A. We only ship twice a week.
Q. Is that a seasonal movement or does that movement continue throughout the year?
A. Throughout the year.
Q. What would be the average weight of a shipment?
A. Not over 5,000 pounds.
Q. In the neighborhood of 5,000 pounds?
A. Generally in that neighborhood.
Q. How have you been shipping in the past?
A. By the B-Line.
Q. And what is the B-Line?
A. It is privately owned, so far as I know.
Q. A carrier?
A. Yes.
Q. And has that service been satisfactory to you, Mr. Shook?
A. Not entirely; we get service twice a week only.
Q. It is not a daily service?
A. No.
Q. Do you have any need in your business for a daily refrigerated service between Albany and the San Francisco Bay area?
A. Yes.
Q. Do you know whether that is what this applicant proposes?
366 A. Yes.

Q. Now, in making your shipments, do you understand that the applicant will have a schedule leaving in the morning at Portland, arriving in Albany in the neighborhood of 10:30 or 11:00 o'clock, and also a schedule in the evening?
A. Yes.
Q. Would that morning schedule be of any use to you?
A. Yes.

Q. Which would have your produce in San Francisco the following morning?

A. That is right.

Q. Is there any service at the present time that you know of that is comparable to that which the applicant is offering?

A. No.

Q. Is the type of service which the applicant is offering one that would be of advantage to you in the conduct of your business?

A. Yes.

Q. And if it were made available to you, would you use it?

A. Yes.

Q. Now, let me ask you: as between a service involving a thru service by one line and contrasted to a service involving an interchange of equipment, do you have any preference?

A. Yes.

Q. Which do you prefer?

367 A. A through shipment.

Q Why?

A. Well, we don't think it is advisable to unload dressed poultry, and have a change of equipment, and have it handled very much; it does not arrive in such good condition.

Q. And if the service is instituted as contemplated, you will use it?

A. Yes, sir.

Mr. BEROL. That is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. You ship primarily dressed poultry and products of that type?

A. Yes.

Q. You don't ship vegetables or fruits?

A. No.

Q. Have you ever used the services—the joint services of this applicant and the Consolidated Freightways—to California points?

A. No.

Q. Did you know that those two companies have for the past year at least been operating through refrigerated trailers from Portland, through Albany, to San Francisco points, a service which did not entail any transfer of lading en route?

A. No.

Q. Would such a service, if operated expeditiously and

368 without undue delay at connecting points, meet your requirements?

A. Yes; if they had proper refrigeration.

Q. The only question—your only requirement is for expedited service under refrigeration?

A. And running on schedule.

Q. Has the Consolidated Freightways ever solicited you for your business to California points?

A. I don't believe so.

Q. You didn't know the service was available?

A. Not direct through.

Q. Haven't you seen on the highways, passing through Albany, equipment of this applicant, with a sign on the side of it, "Oregon-Nevada-California Fast Freight?"

A. No; I have never paid any attention to it; I would not say that I had.

Q. What factors induced you to use the services of the B-Line?

A. Well, they solicited us. After the Pacific Truck discontinued, we transferred over to the B-Line.

Q. Do I understand that the Pacific Truck Express is no longer serving Albany?

A. Not South, so far as I know.

Q. Have you had occasion to request their services during recent months?

A. No.

Q. Have you ever used their services?

369 A. Yes.

Q. How long ago?

A. Oh, I should judge, about a year ago.

Q. Was that a satisfactory service?

A. We had to put in several claims on account of improper refrigeration.

Q. If they were now in a position to give you refrigerated service, direct to California points, would that meet your requirements?

A. Yes; providing the schedule was satisfactory.

Q. Are you familiar with the service of the Pierce Auto Freight Lines?

A. No.

Q. Then you are not aware of the fact that the Pierce Auto-Freight Lines is operating a daily through service from Portland, through Albany, through to San Francisco?

A. No.

Q. If that line is, in fact, giving that through daily service and can provide refrigeration, would that meet your requirements?

A. With proper refrigeration; yes.

Q. Have you made any investigation recently to determine

what refrigerated service is available to you between Albany and San Francisco?

A. Not recently.

Q. Then you don't pretend to say to this Commission that you know anything about what service is available at the present time?

370

A. Well, outside of the Cascade——

Q. Well, you know the Cascade is available?

A. Yes.

Q. You have used their service?

A. No.

Q. Why haven't you used their service?

A. We were only solicited about 2 weeks ago, I believe.

Q. And you have not had occasion to use their services since they solicited you?

A. No.

Q. Do you know what type of service they are giving?

A. No.

Q. Didn't they tell you at the time that they solicited you that they were furnishing daily, refrigerated service to California points?

A. I don't remember whether they said it was daily or not, but they were furnishing refrigeration.

Mr. ELLIS. That is all.

Cross-examination by Mr. HEDGES:

Q. Mr. Shook, do I understand that dressed poultry and eggs are the main commodities that you ship south?

A. Yes.

Q. I wonder if you could tell us what the processing is that these commodities go through before you ship them?

371

A. I don't know as I understand you.

Q. I would like to know if poultry is held in storage or refrigeration at Albany?

Mr. BEROL. I take it that the purpose of the question is to determine whether such commodities are commodities that are exempt commodities under the exempt provisions of the Act. If so, I object to the question as incompetent, irrelevant, and immaterial; we are not engaged in the carriage of commodities, nor do we proposed to carry commodities; which are exempt commodities——

Mr. BROWN. Exclusively.

Mr. BEROL. Exclusively, of course.

Mr. BROWN. Was that the purpose of the question?

Mr. HEDGES. That is it exactly. I wanted to know whether these commodities—that is the gist of what I wanted to know.

Chairman TERRIL. The objection is sustained.

Mr. FARRENS. May I suggest to the Board, if it is exempt commodities that he is shipping, he has not only the carriers that are under the jurisdiction of the Commission to whom he may look for service, but also the carriers that are operating as exempt carriers. Is that the thought you had in mind?

Mr. HEDGES. That is it.

Mr. BEROL. It still makes no difference. I think it is generally understood in proceedings before the Commission
372 that only carriers that are subject to the jurisdiction of the Commission are to be taken into consideration in determining the adequacy of the service; certainly the exempt carriers are not required to perform any service; they come and go as they see fit.

Mr. HEDGES. And charge any rates that they see fit.

Mr. BEROL. That is right, and charge any rates that they see fit.

(Witness excused.)

Mr. BEROL. Counsel for the Pacific Trucking Company has seen fit to make a demand upon me, very courteously, and I want to return the courtesy. I wonder if I could make a request upon counsel for the Pacific Motor Trucking Company that he furnish at the next hearing, or at the San Francisco hearing, the information as to whether or not the recently acquired Pacific Truck Express is going to discontinue any part of its service between points in Oregon and points in California. It is my understanding that that is the case; apparently some shippers who have testified have had the same opinion, and I think this record should show the facts.

Mr. FARRENS. I haven't any more knowledge than you have of the history of this case before we acquired it. I have no better opportunity for checking the past history than counsel has. I am not trying to resist the request, but I am going to ask that he be more specific.

373 Mr. BEROL. It is my understanding that in the last six or eight or ten months there was some service performed by the Pacific Truck Express between points in California on the one hand and points in Oregon on the other hand that was discontinued entirely or curtailed; that is the information I would like to have. Obviously, I can't produce the facts which are in the possession of the Southern Pacific Company or the Pacific Motor Trucking Company.

Mr. BROWN. You mean by order of the Commission or voluntarily?

Mr. BEROL. I understand, by order of the Commission. I understand that for a time they were operating under a temporary authority, and that that temporary authority has expired, and that

by the expiration of that temporary authority that operation was discontinued.

Mr. BROWN. What you are interested in knowing is the service performed by the Pacific Truck Express, and to and from what places?

Mr. BEROL. I think that is a matter for them to develop. I am asking, if there has been any curtailment or cessation in service by the Pacific Truck Express between points in California on the one hand and points in Oregon on the other, during the past year, that the record be furnished with that information.

Now, bearing in mind the time of adjournment this
374 afternoon, I would like to have just a brief recess for a moment. We are faced with four witnesses from out of town, who cannot be here at the next hearing; and if we can have a short recess, probably we can stipulate on something.

Mr. FARRENS. Just a minute. I want an action on the request, first.

Now, I am resisting that request for this reason: the Pacific Truck Express was owned by the Journal Publishing Company until July 1st, and then the Pacific Motor Trucking Company took it over. Mr. Adams, associate counsel with Mr. Berol, for the applicant, was attorney for the Pacific Truck Express prior to the time the Journal Publishing Company sold it to the Pacific Motor Trucking Company. Therefore, so far as any ownership in the Pacific Truck Express is concerned, there is no more reason why I should go to the Journal Publishing Company to find out its past history, or to get the information, than there is for Mr. Adams.

Mr. BROWN. Mr. Farrens, are you going to furnish the exact service which the Pacific Truck Express is rendering under the new ownership?

Mr. FARRENS. I certainly am.

Mr. BROWN. I don't see where Mr. Berol's request would be material.

Mr. BEROL. Several witnesses have testified that they used the Pacific Truck Express, and they have also testified that
375 that service was not available any more. The last witness, I believe, so testified. On the other hand, these witnesses have been cross-examined on the premise that the Pacific Truck Express service has always been available, and at the present time is available, and I think this record should completely show the information; and I might state, if I am put in the position of attempting to show it, I would be met with the objection that my information would be based upon hearsay. I am simply requesting that counsel furnish that information, so that he may be forewarned; and if I attempt to place such information as I have in

the record concerning it, I don't want to be met with that kind of an objection.

Mr. BROWN. Do you have an order showing the present operating rights?

Mr. FARRENS. Mr. Adams has that information.

Mr. BEROL. It might involve, if Mr. Adams divulged the information, a matter of confidential relationship between attorney and client.

Mr. ADAMS. I am familiar with all of those matters relating to the Pacific Truck Express, but I would not feel free to divulge them. My employer was the Journal Publishing Company, and I would not feel free to, and would not, divulge anything that might involve the question of confidence in the course of that proceeding.

376 Mr. FARRENS. There is nothing confidential about the character of schedules which they ran, or what their time was, or where they operated.

Mr. BEROL. I figure that counsel is resisting my request, and then we will do the next best thing.

Mr. BROWN. It would seem that the information Mr. Adams could give of the scope of the operation would not come within the confidential rule.

Mr. FARRENS. Certainly not.

Mr. BROWN. If we have in the record what the present operation is, why can't you testify what the past operations were; I don't think there would be anything confidential about that.

Mr. ROBERTS. We won't object.

Mr. ADAMS. Of course, the confidence is that of the employer.

Chairman TERRIL. Suppose we go off the record?

(There was a discussion off the record.)

Mr. BEROL. I will offer to stipulate that the next witness now present in this hearing is F. H. Strong, of the Meadowland Creamery Company, of Eugene, Oregon; that he ships butter and turkeys from Eugene to San Francisco Bay points; that the turkeys are a seasonal movement, moving during the Thanksgiving and Christmas holidays; that the testimony of the witness Strong on direct will be substantially as to need for service as the witness Shook, who was the last witness to testify, and that, if asked sub-

377 stantially the same questions on cross-examination his answers would be substantially the same.

Mr. FARRENS. The stipulation is acceptable to me.

Mr. ROBERTS. It is acceptable to us.

Mr. BEROL. And I might add one item thereto, and that is with respect to the volume of turkeys. He shipped 1,200,000 pounds the last year: his movement of butter is approximately 200,000 pounds per year.

Examiner KEPHART. In truckload lots or less-than-truckload lots?

Mr. BEROL. Less than truckload. I imagine that it is both truckloads and less-than-truckload lots. One further item to be considered in the stipulation: all the commodities are commodities which move by truck, and the weights furnished do not take into consideration the movement by rail; that the butter moves lcl and the trukeys move both in truckload lots and in less-than-truckload lots.

Mr. FARRENS. Well, I would like to cross-examine him on that. Let the record show that the stipulation stands as to the cross-examination, with a few additional questions.

F. H. STRONG was sworn and testified as follows:

Cross-examination by Mr. FARRENS:

Q. Between what points does your tonnage move?

A. Between Eugene and San Francisco, or between Eugene and Portland and Seattle.

378 The turkeys would be moved to San Francisco alone.

Q. What motor carriers have you used to carry that business?

A. As far as I know, we have tried out all the available means of transportation.

Q. Rail and truck?

A. Truck lines—operating truck lines.

Q. Do you still continue to patronize all the truck lines?

A. That is a matter for the shipping department. I might explain that this way: the foreman comes in and says he has so much to get out. He informs the shipping clerk, and it is up to the shipping clerk to get the transportation. In the matter of butter, the competitive prices at Seattle and San Francisco, taking into consideration the freight haul, are matters which determine which way the movement goes; the shipping clerk then gets busy and gets the transportation.

Q. So you have used them all?

A. Yes.

Q. Rather indiscriminately?

A. Yes.

By Chairman TERRIL:

Q. Does the same thing apply to turkeys?

A. Turkeys are generally held until there is a large truckload; the last few days before Christmas or Thanksgiving they are generally moved out.

By Examiner KEPHART:

Q. By various truck lines?

A. Any way we can get them there.

379 By Chairman TERRIL:

Q. You use all lines?

A. Yes.

Chairman TERRIL. I think that will be all. Thank you very much.

(Witness excused.)

380 L. C. JONES was sworn and testified as follows:

DIRECT EXAMINATION

Q. Your name is L. C. Jones?

A. Yes.

Q. Where do you reside?

A. The Dalles.

Q. What is your business or occupation?

A. Commerce advisor for The Dalles Traffic Association.

Q. Will you please state what your transportation experience has been?

A. My active transportation experience covers a period of 16 years. For six years I was traffic manager for one of the largest lumber operators in the Pacific northwest, Weyerhauser Timber Company; in which capacity I had full charge of the entire shipping of that organization at Lewiston, Idaho, which is the largest white pine mill in the United States. Subsequently, I was engaged as chief of the Transportation Department for the Idaho Public Utilities Commission at Boise, having full charge of all rates and traffic matters of both rails and truck lines. I occupied that position for three years. Subsequently, I was engaged in general traffic matters for four years at Great Falls, Montana, handling rail and truck problems. During the last year and a half, I have been commerce advisor for The Dalles Traffic

381 Association actively engaged in working out a coordinated program in connection with the Columbia River Development program and in charge of traffic at the river bank between that point and the Inland Empire, which position I occupy at the present time.

Q. What is The Dalles Traffic Association?

A. It is a voluntary association of representative groups, including The Port of The Dalles, The City of The Dalles, Chamber of Commerce, and The Dallesport Developing Company, which has an interest in the north side of the river in Washington.

Q. Are you authorized to testify in behalf of these groups in this proceeding?

A. I am.

Q. What is the basis of your authority?

A. The transportation matters pertaining to the community is handled through the Traffic Association, and this matter was submitted to the Board of Directors at the last Tuesday meeting, and I was authorized to appear in behalf of the applicant in this proceeding.

Q. What is the Port of The Dalles?

A. The Port of The Dalles is a municipal corporation which comprises a port district which encompasses the north portion of Wasco county extending for 20 miles along the river.

Q. Is the Port of The Dalles a part of the Columbia and Snake River improvement?

382 A. It is.

Q. Will you describe what that improvement has been?

A. The Columbia and Snake River improvement may be characterized as the development initiated by the Federal Government under the supervision of the U. S. Army Corps of Engineers. The Federal expenditures up to the present year represents a total of $83,503,498.00. A portion of this investment is allocated to the power development at Bonneville, and the balance to the navigation improvement of the River. There is also an investment represented by various public bodies which total $8,224,847.00. This investment might be represented as covering various interchange facilities, sites acquired for development, and other ancil'iary services. The Dalles Port District represents an investment in excess of $365,000.00, principally consisting of shedded warehouses which total some 85,000 square feet and also an oil dock arrangement whereby package and petroleum oil can be handled in connection with the petroleum farm development.

Q. Is the Port of The Dalles one of the larger river developments in recent years?

A. It is. As a condition precedent to the establishment of seagoing locks at Bonneville, it was necessary for the Port district to provide adequate facilities to be established for the handling of water traffic.

Q. Will you describe the nature of the facilities that have been established?

383 A. The facilities consist of what we may regard as two units. Unit No. 1 consists of two shedded warehouses constructed on piling with the latest elevator transportation facilities; the equipment is designed to handle in the most expeditious way any general type of tonnage that is unloaded at the docks.

The other unit consists of the oil dock wherein bulk or barrel petroleum is handled direct from the tank barge to the storage on the land. The facilities of Unit No. 1 can adequately handle three sea-going vessels at one time.

Q. Have you made any investigation to determine what utilization is being made of the Port at the present time?

A. Yes; I have.

Q. Have you compiled the results of this investigation into exhibit form entitled "Record of Tonnages Handled Through the The Boneville Locks for the Period Indicated"?

A. Yes; I did.

Mr. Berol, I will ask that that be marked as "Exhibit No. 6."

Chairman TERRIL. It will be so marked.

(Exhibit 6, Witness Jones, marked for identification.)

Q. Will you please proceed to explain the exhibit?

A. This is an exhibit which has been prepared by myself after having access to the original documents of the U. S. Engineer Corps at Bonneville office. The upper portion of the exhibit indicates the period shown from 1937 through the first five months of 1940. The year 1937 was selected as the starting
384 point of this exhibit because it represents the first four years operation of the Port. It will be observed that the upper portion covers petroleum products, wheat, rafted logs, general cargo, and the total tonnage for the representative years shown at the extreme right-hand column. I want to call particular attention to the general cargo, which represents a movement of only 223 tons in 1937, which had jumped to 17,800 tons in 1939, and reached a proportion of 13,031 tons for the first five months of 1940. In order for a more complete understanding of the general cargo item, I have broken that down into a listing of the various commodities that are included in a general cargo item, representing 13,031 tons, and have also added the diesel and fuel oil of 14,685 tons, which represents the diesel and fuel oil taken from the petroleum products, which are not handled in tank equipment, but which represents package goods.

Q. Are you in a position to tell me as to what portion of that movement moved through the Port of The Dalles the first five months in 1940?

A. Yes; 74 percent of the general cargo item of 27,716 tons listed on this exhibit represents the percentage which has moved through the Port of The Dalles during the first 5 months of 1940.

Q. Now with respect to this tonnage that moves in or out of The Dalles, to or from what point or points does it move by water?

385 A. The greatest bulk of it moves to or from Portland.

Q. What water facilities do you have between the Port of The Dalles and Portland?

A. There are at the present time five water lines operating between these points: The Columbia River Navigation Company, Inland Navigation Company, Shaver Forwarding Company, Upper Columbia and Snake River Company, Tidewater Transportation Company.

Q. What is the interest of the Port of The Dalles, The Dalles Chamber of Commerce, City of The Dalles and The Dalles Development Company in this proceeding?

A. The Port of The Dalles is a municipal corporation holding out its service to all shippers and receivers of freight on an equal basis. As such, we hold no brief for any particular carriers. However, as was testified here in the last case heard, being the application of Consolidated Freightways, by its President James, Consolidated Freightways controls The Shaver Forwarding Company, being one of the carriers furnishing water facilities between The Dalles and Portland. Consolidated is a large company, this being one of its many branches, and controls the forwarding of a tremendous amount of traffic. It is reasonable to suppose, of course, that Consolidated Freightways will favor either the Shaver forwarding Company or its own truck line between Portland and The Dalles as to any traffic moving between Portland and The Dalles. The other water lines serving Portland and The
386 Dalles are equally important to us as the Shaver Forwarding Company, and their continued existence is essential to the Port of The Dalles and the community of The Dalles. We are very anxious that the competitive situation be preserved in so far as the Port of The Dalles and these water lines are concerned. We feel that through service between San Francisco Bay area and Portland that will connect up with these independent water lines between Portland and The Dalles is essential to the preservation and the development of the Port of The Dalles and the independent water lines.

Q. Have you discussed with the Oregon-Nevada-California Fast Freight the question of making joint rates and through service with these independent water lines?

A. I have.

Q. Have you discussed with these independent water lines the question of making joint rates and through service with the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. What was the result of your discussion with the Oregon-Nevada-California Fast Freight and these independent water lines?

A. I have discussed with the Oregon-Nevada-California Fast Freight the proposition of entering into joint rates and through service with the water lines and they have agreed to do so. I have likewise discussed the same proposition with three water
387 lines, and they, too, have agreed and are anxious to do so, and have authorized me to testify in their behalf.

Q. Why are you particularly concerned about working out such arrangement with a motor carrier?

A. For the reason that we do not have any physical rail connection with the dock.

Q. Have you attempted to get such a physical rail connection at the dock?

A. Yes; the matter has been subject to negotiation and controversy for the past few months.

Q. What is the nature of the controversy?

A. The problen of securing the track connection which will permit direct transfer between the dock and the rail tracks. We have only the one railroad at The Dalles, that is, the Union Pacific. We have been attempting to induce the Union Pacific to extend their tracks to the docks. They have thus far refused to do so unless we pay the entire costs thereof, amounting to approximately $30,000.00.

Q. Why can't you make arrangements for use of the facilities of the coast water lines?

A. Such facilities will have to be utilized at Portland as only one oceangoing vessel has called at The Dalles. We do make some connections with oceangoing vessels at Portland. In addition, however, to making connections with coastwise vessels, we must have full facilities for connections with responsible truck
388 carrier as well as with coastwise vessels, in order to give more expedited service. Another problem in connection with this is that the coastwise facilities have gradually decreased, whereas the rates have gradually increased. We find it almost impossible to get coastwise space.

Q. Is it your view that a through truck service by Oregon-Nevada-California Fast Freight between San Francisco Bay points and Portland and connections with the water lines you mentioned will be of advantage to the Port of The Dalles?

A. Very definitely so.

Q. Is it your view that it will be of an advantage to water lines?

A. It will.

Q. Is it your view that the Port of The Dalles and the community of The Dalles need such a service?

A. It is.

Q. Is it your view that the Port and the community of The

Dalles and the water lines will utilize such a service if it is available?

A. It will, very extensively.

Q. Does that conclude your testimony, Mr. Jones?

A. It does.

Mr. BEROL. You may take the witness. However, prior to so doing, I will offer the document which has been indentified as Exibit No. 6.

Chairman TERRIL. Is there any objection?

389 Mr. HEDGES. I would like to ask some questions before it is received.

Mr. BEROL. I will defer the offer.

Mr. HEDGES. I don't think it has been indicated whether the authority that is here sought includes the commodity, bulk petroleum. It covers general commodities, with no exception.

Mr. BEROL. We will eliminate the commodity, bulk petroleum in tank trucks.

Mr. HEDGES. Are you willing that the application be so amended.

Mr. BEROL. I am willing that an amendment be made so restricting it.

Mr. HEDGES. The reason I ask that is, I have reason to believe that a part of the total tonnage shown here is petroleum in bulk. Also, I note there are piles, poles, sand, and gravel, and things like that don't move in the type of service hereunder consideration.

Mr. BEROL. I think that is obvious. No contention is made that all those commodities will be moved in the service applied for. The point raised by Mr. Hedges goes certainly to the weight of it, but not the admissibility of the exhibit.

Mr. FARRENS. I wonder if counsel would be willing to defer the introduction of this exhibit until he is in a position to tell us what commodities listed in the lower half of the

390 page will be excepted from the application.

Mr. BEROL. I can tell you that in a few minutes. They will all be accepted for shipment, except piling and poles. Now, may this now be received, with that explanation?

Mr. HEDGES. I have no objection.

Chairman TERRIL. It will be received in evidence and marked as Exhibit No. 6 in this matter.

(Exhibit 6, witness Jones, received in evidence.)

Mr. FARRENS. I understand Mr. Jones will be available for cross-examination at either San Francisco or Portland, and in view of the paucity of time, I will defer my cross-examination until that time.

Chairman TERRIL. Is that sati factory?

Mr. HEDGES. It is with me.

Mr. ROBERTS. It is agreeable with me.

Chairman TERRIL. All right. You will be excused at this time, Mr. Jones.

(Witness excused.)

Mr. ADAMS. Mr. Chambers.

G. F. CHAMBERS was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Will you state your name, please?

A. G. F. Chambers.

391 Q. Where do you reside?

A. Salem.

Q. In what employment or occupation are you engaged?

A. I am sales manager for the Valley Packing Company.

Q. You have charge of the traffic matters of your company?

A. Yes.

Q. Your company is located at Salem, Oregon?

A. Salem.

Q. Does your company ship between Salem, Oregon, and points and places in California?

A. Yes.

Q. As far south as South San Francisco?

A. We ship to San Francisco and Bay points, and points in Northern California between Hornbrook and Dunsmuir.

Q. Those points would be what?

A. Hornbrook, Yreka, Weed, Mt. Shasta, Dunsmuir.

Q. You ship to camps?

A. Occasionally.

Q. What commodities do you ship?

A. Fresh and cured meats.

Q. Approximately what is the volume of your shipments from Salem to the California points that you named, per month?

A. It varies very materially, but it will probably average 40,000 pounds a month the year around.

392 Q. Do you know anything about the facilities and service of the Oregon-Nevada-California Fast Freight?

A. Only that they are a connecting line out of Medford with the Consolidated Freightways, a carrier that operates out of Portland.

Q. The Consolidated Freightways?

A. That is right.

Q. How are your shipments moving out at the present time?

A. The Consolidated out of Salem, and I presume the Oregon-Nevada-California beyond that; and also the Railway Express.

Q. Prior to this hearing, did you investigate the standing of the applicant, the Oregon-Nevada-California Fast Freight?

A. Well, I am somewhat familiar. I made a superficial examination.

Q. Did you inquire into their financial standing and reliability?

A. I know they have been in business a long time and are supposed to be responsible; the boys handle our freight on that end all right.

Q. What motor carrier service have you used in the past?

A. To these points?

Q. Yes.

A. The Pacific Truck Express and Consolidated.

Q. Have you utilized other carriers?

A. Not to any extent at all.

393 By Exam. KEPHART:

Q. Are your shipments in truck load or less than truck load quantities?

A. At the present time, less than truck load.

By Mr. ADAMS:

Q. Less than truck load quantities?

A. Yes.

Q. Did you make any investigation to determine what motor carrier service is available to you for your shipments?

A. Yes.

Q. What did that investigation consist of?

A. Just finding out what truck lines were available, and which ones gave service to that territory.

Q. What did you do in the way of investigation?

A. I wrote to the—I don't know the name of it—here in Portland.

Q. The Interstate Commerce Commission?

A. Yes.

Q. The Bureau of Motor Carriers?

A. Yes.

Q. Did you write that letter yourself?

A. Yes; I dictated it.

Q. That letter was written at the suggestion of the representative of the applicant?

A. Yes.

Q. Prefatory to this hearing?

A. Yes.

394 Q. Are you here supporting the application of this applicant?

A. Yes.

Q. Why are you here supporting the application? Will you tell the Board and the Examiner why?

A. The main things we ship into California are highly perishable articles, and we would like to have just as fast service as we can possibly get; we would like to have as a regular service, a service that is just as fast as we possibly can get; we are interested in it from that angle.

Q. Does that move under refrigeration?

A. Not necessarily. However, great care must be taken in its movement. Some of it moves under refrigeration.

By Exam. KEPHART:

Q. How often do you ship?

A. Practically daily.

By Mr. ADAMS:

Q. Do you prefer mechanical refrigeration?

A. Yes.

Q. What difficulties have you had with existing service?

A. How is that?

Q. What complaint have you made of the existing service?

A. We haven't had any serious complaint, except the fact of transfers in service which are always bad.

Q. You mean transfer of the lading?

A. Transfer of the material; yes.

Q. Is transit time of value to you?

A. Very much.

395 Q. As to the Pacific Truck Express, they operate straight through?

A. I believe so; we have not used their services recently.

Q. Why did you discontinue their service?

A. The main reason, we have complaints from consignees in California. While we select our own carriers, we take their advice on how shipments should come in here; we have tried them both, and the consignees claim that the present shipments come in there better.

Q. That is by means of the Consolidated and the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. That is in spite of the transfer at Medford?

A. Yes.

Q. Are you familiar with the service that this applicant is offering Sales for Northern California points?

A. Yes, reasonably so.

Q. Does that more nearly meet your requirements?

A. I understand in their application that they will take a truck in the morning—one or more trucks in the morning, and some at night, and we could use both of these services.

Q. Now, is there any other improvement in service that you have in mind, which the application of this applicant proposes to cover?

A. The matter of time; the matter of no transfer at any
396 point.

Q. Have you ever been solicited by the Cascade Fast Freight?

A. No.

Q. By Mitchell Bros.?

A. Once or twice by Mitchell Bros.

Q. Have you ever tried their service?

A. I believe we shipped one shipment about three or four years ago. I wouldn't say for certain; if it was, it was just one shipment.

Q. Do you recall why you didn't ship additional shipments?

A. It was not satisfactory; it did not come in there on time.

Q. Have you ever been solicited by the Pacific Refrigerator Motor Line?

A. No.

Q. Colletti Fast Freight?

A. No; I have seen them on the road.

Q. You have not shipped by them?

A. No.

Q. The Los Angeles-Seattle Motor Express?

A. I have seen their trucks on the road.

Q. You have not used them?

A. No.

Q. To sum it up, do you believe that the Commission should issue this applicant—

Mr. ELLIS: Let the witness sum it up.

The WITNESS: To be really frank, I think the petition
397 is a good one; I would like to have some other lines running in there.

By Mr. ADAMS:

Q. Have you had difficulty in getting service of the type you want, in the past?

A. The only trouble we have with the present service is the transfer at Medford. We have tried to get service to those points, but we have found there is too long a delay at Medford, in going to the California points, between Dunsmuir and the Oregon line.

Mr. ADAMS: You may cross-examine.

Cross-examination by Mr. ELLIS:

Q. Is it your impression that the traffic is transferred at Medford?

A. Yes.

Q. Are you aware of the fact that the Consolidated Freight Lines and this applicant are operating through refrigerated trailers from Portland to San Francisco at the present time?

A. Yes.

Q. They are not giving you the benefit of that?

A. They are into San Francisco; but they are not into Northern California points. What I mean by Northern California is the extreme Northern California, places such as Dunsmuir and Hornbrook.

Q. Have you been told, if this application is granted, you will get this local service, in small lots, into such North-
398 ern California points?

A. Yes.

Q. In through refrigerated service?

A. Yes.

Mr. ELLIS: That is all.

Cross-examination by Mr. HOLBROOK:

Q. Have you ever used the Consolidated Freightways?

A. Yes; we have.

Q. Have you found their service satisfactory?

A. Yes.

Q. Are you acquainted with the fact that the Consolidated Freightways has applied for permission to put in a run very similar to the run in this application?

A. I understand.

Q. If that right was given to the Consolidated Freightways, would you be glad to use the services of the Consolidated Freightways?

A. I possibly would use anyone that would give us good service. We are not married to any of the truck lines; we will use any of them that would give the service.

Q. Then you would use that service?

A. We possibly would.

Redirect examination by Mr. ADAMS:

399 Q. Do you feel that there is an over-supply of service?

A. No.

Q. Why do you say that?

A. I just feel that we always must have better service, whether it is truck lines or anything else; when we have a little competition or one or more companies in competition, that is what I mean, and then we get better service.

Mr. ADAMS: That is all.

Re-cross-examination by Mr. HEDGES:

Q. What did you ask the Interstate Commerce Commission when you wrote them that letter of inquiry?

A. I asked them for the lines serving the points we are shipping to from Salem, Oregon; that is, from Salem, Oregon, to points in California.

Q. How many lines did they tell you were doing that?

A. I believe it was six or seven; I couldn't tell you exactly.

Q. Approximately what was the date that you received that information?

A. What date?

Q. Yes.

A. Just in the last day or two.

Q. Since you received it have you made any inquiries of the carriers mentioned?

A. No.

Mr. HEDGES: That is all.

400 Mr. ADAMS. That is all.

(Witness excused.)

Mr. ADAMS. Mr. Coulson.

R. B. COULSON was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you give your full name?

A. R. B. Coulson.

Q. You reside in Salem, Oregon?

A. Correct.

Q. What is you employment or occupation?

A. Treasurer of the Miles Linen Company.

Q. That is the Miles Linen Company of Salem, Oregon?

A. Yes.

Q. Do you have control of the traffic matters for your company?

A. I do.

Q. How long have you had such employment?

A. About four and one-half years.

Q. What is the business of your company?

A. Flax twine, and linen gill netting.

Q. Between Salem and what points in California do you ship?

A. Sacramento, Pittsburg, San Francisco, and occasionally Los Angeles.

Q. Shipments originating at Salem?

401 A. Yes.

Q. And what is your monthly tonnage value of shipments from Salem to the California points named by you?

A. Taking it as an average, approximately 12 tons.
Q. 12 tons per month?
A. Right.

By Exam. KEPHART:

Q. Truckload or less than truckload quantities?
A. Less than truckload.
Q. And that moves by auto freight?
A. Yes.
Q. Are you familiar with the facilities and service of the Oregon-Nevada-California Fast Freight?
A. We have used them, I guess, in connection with the Consolidated.
Q. That is from Medford to San Francisco?
A. Yes.
Q. You have found that service to be a reliable service?
A. We did have some trouble in the past, some shipments that were damaged, but I would not know, of course, who was responsible for it.
Q. What motor carriers have you used in your shipments?
A. We have used the Consolidated and the Pacific Motor Express.
Q. You mean the Pacific Truck Express?
492 A. Pacific Truck Express.
Q. Have any other carriers solicited your business?
A. Not within my memory.
Q. Do any of the other carriers, to your knowledge, have any terminals or agencies at Salem?
A. I am not familiar with them.
Q. Did you make an investigation to ascertain what service was available to you?
A. I wrote a letter to the Director of Motor Carriers, Interstate Commerce Commission.
Q. Did you write that letter yourself?
A. Yes.
Q. It was written at the suggestion of a representative of the applicant, was it not?
A. That is correct.
Q. And you are here supporting the application of the Oregon-Nevada-California Fast Freight?
A. Correct.
Q. Will you tell the Board and the Examiner why you think authority should be granted to the applicant?
A. Well, in our particular case, the peculiar thing or the big thing, is speed. The business of gill netting, primarily, goes

to Alaska from San Francisco. The boats are there, and they wait for the gill netting. They will wait half an hour or an
403 hour, but that is very important, to catch these boats before they sail up for Alaska points.

Q. Have you had any difficulty with the speed of delivery in getting your orders delivered?

A. That has been the main difficulty.

Q. To what do you attribute your lack of speed?

A. Changing from one truck to another; in other words, lack of through service.

Q. Are you familiar with the fact that the Pacific Truck Express runs straight through?

A. Yes.

Q. What experience have you had with that carrier?

A. Within my memory, there was not sufficient care in handling.

Q. What is your thought on the service that is available to you? Do you think it is sufficient?

A. We should like to have more service, because, possibly, we will be able to get hold of someone that can deliver it in satisfactory condition, and in good time; which we have been unable to do so far; speed in delivery is very important.

Q. Your complaint as to the joint service of the applicant and the Consolidated Freightways has been the lack of speed and lack of care in handling?

A. The more speed the better; but the main trouble has been lack of care in handling.

Q. And have you been able to secure from the motor carriers that are available to you the services that you feel you need?

404 A. No. Our sales office in San Francisco has advised us that if the shipments that we have sent by auto freight could not get there in sufficiently good condition to warrant shipping that way, to discontinue it.

Q. Is your product very valuable?

A. Very valuable; about $3.60 a pound; and it is very fragile.

Q. Is railroad freight suitable to your needs?

A. No. It is too slow. We must have faster service.

Q. Are you familiar with the services of the applicant?

A. I looked into it to ascertain something about it, from a friend of long standing, and I hope and believe it will be satisfactory and available to us.

Mr. ADAMS. You may cross-examine.

Cross-examination By Mr. ROBERTS:

Q. You say that a considerable amount of your shipments to San Francisco are for boats that go to Alaska?

A. Correct.

Q. You are advised as to the leaving time of those boats quite considerably before they go, are you not?

A. No. Sometimes the sailing is made very shortly after the order. In other words, they do not buy their supplies, or their gill nets until just prior to leaving.

Q. How much time do you usually get prior to their leaving on the boats?

405 A. Sometimes we get a wire and have to manufacture it and have it down there in two days; that is according to the size of the order, of course.

Q. How long does it take to manufacture it?

A. It depends on the size of the order.

Q. The average order that you send to Alaska, how long does it take to manufacture it?

A. I would say about ten hours.

Q. Then, if you got two days' notice, you couldn't make it and send it down there?

A. They would have to wait for it until we get it there.

Q. The boat would wait for it?

A. A private boat, yes; if they didn't have to wait too long; sometimes they will wait a little.

Q. In other words, the boat will wait?

A. Unless someone else can get there sooner.

Q. On these occasions when you have had two days' notice to manufacture, the boats have waited for you?

A. No. It would not be a matter of waiting over a half a day.

Q. At least, they will wait a half day?

A. Some of them will; some will not.

By Exam. KEPHART:

Q. Are these private shipping boats that use the nets for their own purposes?

A. Private schooners.

Q. Private schooners?

406 A. That is right. If it is a large net, it might be a matter of 800 pounds; or may be less or more.

By Mr. ROBERTS:

Q. You have utilized the services of the Consolidated Freightways and this applicant?

A. We have in the past.

Q. What other facilities have you used?

A. Pacific Truck Express.

Q. But you are now using the Consolidated and this applicant?

A. We have used them. There isn't much shipping here lately; but the Consolidated is the last one we have used.

Q. You say that you wrote to the Interstate Commerce Commission to ascertain the number of carriers?

A. Yes.

Q. How many were you advised were in operation between Salem and the Bay points?

A. I think it was five or six

Q. Five or six?

A. I think that is it.

Q. Did you make an investigation as to those carriers?

A. No; I have not.

Q. Have you ever heard of the Pierce Auto Freight Lines?

A. Yes.

Q. Have you ever used them?

A. No.

Q. Do you know whether they are satisfactory or reliable
407 carriers?

A. I have never used their services, and I wouldn't know.

Q. But you know of them?

A. I know there is such a freight line.

Q. You know, from the answer you received from the Interstate Commerce Commission, that they are in operation to the San Francisco Bay points?

A. Yes.

Q. Did you inquire how many of these carriers gave through service—of the Interstate Commerce Commission?

A. Yes.

Q. How many were there; did you find out?

A. About the same number.

Q. About the same number?

A. Yes.

Q. Including that of the Pierce Auto Freight Lines?

A. Yes.

Q. You haven't made any investigation as to the Pierce facilities?

A. That is right.

Q. You were advised they were in operation and could give you the same type of through service that you desire?

A. That is right.

Q. And still you have not used them?

A. Yes; that is correct.

408 Q. And this facility is afforded you, and at the same time, at the present time, you find objection to the use of the Consolidated-Oregon-Nevada-California Fast Freight, because of the change in physical lading at Medford?

A. That is right.

Mr. ROBERTS. Thank you.

Cross-examination by Mr. HEDGES:

Q. Did I understand you on direct examination to say that only one carrier that was listed to you had a terminal at Salem?

A. I said, according to my knowledge, I knew of only two.

Q. Did you ever examine the phone book to see whether there were more than two?

A. No.

Cross-examination by Mr. FARRENS:

Q. What are you asking the Commission to do? Is it to grant the application so that, in addition to the carriers now serving the territory, there will be another and new line to try to see if you can get satisfactory service from?

A. That is correct.

Q. If you want to try a new line that you have not used, why don't you try the lines that are already serving the territory?

A. Possibly I might, if I was approached in the right manner.

409 Q. Then it is not lack of service but lack of approach?

A. Lack of both.

Q. You can't say much about the lack of service when you have not tried them.

A. Possibly we have tried them; possibly our company has in the past. I know we have a standing order in the San Francisco market to avoid handling as much as possible.

Q. You mean to try to avoid handling?

A. Yes; and along with that to avoid using the present auto service transportation.

Q. If what you are looking for is new management, let me call your attention to the Pacific Truck Express; that concern was sold and a new management took charge of that line, effective July 1. Wouldn't you think it would be a fair thing to try the new management?

A. They would have to prove to us that they were going to give better service.

Q. Wouldn't you think that the entire change in management would justify your trying a new service, or trying the service again, as well as a service like the Oregon-Nevada-California Fast Freight?

A. Possibly.

Cross-examination by Mr. HOLBROOK:

Q. If the Consolidated Freightways were able to give you
410 the same direct service, without any transfer, in the same time, would you use them?

A. I feel the same way as Mr. Chambers; any service is suitable if it is satisfactory, and the more service the better.

Redirect examination by Mr. ADAMS:

Q. I take it from that, that you don't think there is a sufficiency of service at the present time.

A. That is right.

Q. In connection with this letter that you got from the Interstate Commerce Commission, did they advise you whether the carriers were actually operating, or whether they merely had operating rights that were finally decided or were in the process of being decided?

A. I think it was a matter of who had the operating rights.

Q. And nothing was said as to schedule or whether they were serving a particular point or not?

A. That is right.

Q. You are engaged in a highly competitive business?

A. That is right.

Q. If you are not able to get the transportation service between Salem and the points that you named in California, it is a matter of extreme importance to you?

A. It is a matter of very extreme importance to us in the sales aspect.

Mr. ADAMS. That is all. Thank you.

(Witness excused.)

411 Chairman TERRIL. We will stand recessed in this case until Tuesday, the 23d of this month, at nine o'clock a. m., at this place.

(At 5:04 p. m., July 12, 1940, the hearing was adjourned until Tuesday, July 23, 1940, at 9:00 o'clock a. m.)

412 PORTLAND, OREGON, *July 23, 1940*
9:00 oclock a. m.

Before Joint Board No. 5, composed C. T. Terril, Chairman, representing the Public Utilities Commissioner of Oregon; Warren K. Brown, representing the California Railroad Commission; and Charles H. Kent, representing the Washington Department of Public Service.

Present, also, C. I. Kephart, Examiner, Bureau of Motor Carriers, Interstate Commerce Commission.

Appearances: (As heretofore noted.)

PROCEEDINGS

Chairman TERRIL. The matter of the Oregon-Nevada-California Fast Freight application, MC 9115, Sub. No. 1, was adjourned on July 12 to this time and place. The hearing in this matter will be continued until two o'clock this afternoon.

(At 9:02 a. m. the hearing was continued until 2:00 p. m. of the same day.)

413 PORTLAND, OREGON, *July 23, 1940*, 2:00 o'clock p. m.

Additional appearance: Henry T. Ivers, of Lenihan & Ivers, 1405 Hoge Building, Seattle, Washington, appearing for Los Angeles-Seattle Motor Express, Inc., Protestant.

PROCEEDINGS

Chairman TERRIL. Let the record show that this is the application of the Oregon-Nevada-California Fast Freight, Docket No. MC 9115 Sub No. 1, which was continued for hearing from July 12 to 9 o'clock this morning, and was further adjourned this morning until this time, two o'clock p. m.

Mr. Ivers, I understand you wish to make an appearance.

Mr. IVERS. Yes. My appearance was attempted to be put in in my absence, but, I understand, it was not permitted.

Henry T. Ivers of Lenihan & Ivers, Attorney at law, 1405 Hoge Building, Seattle, Washington, admitted to practice before the Interstate Commerce Commission, appearing on behalf of the protestant, Los Angeles-Seattle Motor Express, Inc.

Chairman TERRIL. You may proceed, Mr. Berol.

Mr. BEROL. Mr. Layley.

JOHN A. LAYLEY was sworn and testified as follows:

Direct Examination by Mr. BEROL:

414 Q. Will you give your full name to the reporter?

A. John A. Layley.

Q. Where do you reside, Mr. Layley?

A. 3913 Northeast 64th, Portland, Oregon.

Q. What is your occupation?

A. Sales manager for the Smith Auto Parts Company.

Q. How long have you been so occupied?

A. Nine months.

Mr. HICKSON. What is that name? What is the name of the company?

Mr. BEROL. Smith Auto Parts.

By Mr. BEROL:

Q. Are you familiar in a general way with the application of the Oregon-Nevada-California Fast Freight, pending here?

A. Yes.

Q. You understand that they are offering a through service between San Francisco Bay area on the one hand and the Coos Bay area on the other hand?

A. Yes.

Q. Now, does your company have occasion to make shipments from the San Francisco Bay area to points in Oregon located on Highway 99, as far as Portland, Oregon?

A. We do.

Q. Do you also have occasion to make shipments to the Coos Bay area?

415 A. Yes.

Q. Will you explain briefly what the nature of your business is?

A. We are occupied in the parts business, servicing trucks, tractors, automobiles, and general accessories.

Q. Where is your office?

A. Our headquarters are in Portland.

Q. And do you have any other offices in this territory?

A. Yes; we do.

Q. Where?

A. We have two stores in Portland, one in The Dalles, one in Tillamook, and one in McMinnville.

Q. Now, with respect to the stores—you say your headquarters are in Portland, Oregon?

A. Yes.

Q. Referring to the source of your supplies, where is your principal source of your supplies?

A. Well, we draw from warehouses on the Coast.

Q. And particularly at what points are those warehouses located?

A. Seattle, Portland, and Frisco.

Q. Between the principal points which you have named, Seattle, Portland, and San Francisco, as to quantity of movement, which is the most important, Seattle, Portland, or San Francisco?

A. San Francisco is the most important.

416 Q. Explain briefly why that is so?

A. Being engaged in the truck and tractor field, the different types of trucks and tractors cause a great necessity for a variety of parts. As you know, those parts are very expensive, and most of the heavier parts are slow moving parts, and many of the parts for the tractors and, for the motors, as well, are manufactured to the particular customer's order. There are many slow moving parts, but quite often it is required that we draw from the warehouses for some of the slow moving parts, and San Francisco has the greater variety of those parts, and you are more likely to get what you want from San Francisco in a hurry than you are from Seattle or Portland.

Q. How frequently would you say that you ship from the San Francisco Bay area into points in Oregon?

A. Very frequent. We have orders sometimes every day of the week; sometimes two or three orders.

Q. Is that year round, or is that movement seasonal?

A. Our peak season, of course, is the seven months starting from March and going to the fall of the year. We run a complete machine shop, and we draw heavy parts, of course, all the year round.

Q. Are you familiar in a general way with the transportation facilities as they exist from the San Francisco Bay area to Coos Bay, and also from San Francisco to the Oregon points north of Medford. to Portland?

417 A. I have not the knowledge of Mr. Sites, our traffic manager. I know the length of time it takes to get the parts through, to handle the sales; I know about the length of time it takes to get the parts here, but Mr. Sites is more familiar with traffic conditions than I am.

Q. Is Mr. Sites available today?

A. No.

Q. Where is he?

A. In Los Angeles.

Q. With respect to your transportation of commodities to the Coos Bay area, do you understand that the applicant is offering a first day service to the Coos Bay area from the San Francisco Bay points?

A. I understand so.

Q. Is that an advantage over the present facilities available?

A. Yes; it is.

Q. Do you know what the present facilities are from San Francisco to the Coos Bay area?

A. Second morning delivery.

Q. Is time in transit of any consequence to you in the conduct of your business?

A. Very much so.

Q. Will you explain why?

A. I think I have covered that point. Inasmuch as tie-ups are expensive, and this business being as competitive as it is,

418 that necessitates that we get as good service a- we possibly can; and the man who has facilities for service is the man who gets the merchandise sold.

Q. You indicated that you shipped from San Francisco Bay points to points on Highway 99 between Medford and Portland?

A. Yes.

Q. Will you enumerate those points?

A. Well, we ship to Salem, Albany, Eugene, and some into Medford.

Q. Now, with the understanding that deliveries to points like Salem, Eugene, and Albany will be available in the late afternoon, how does that compare with the service that you are able to obtain at the present time?

A. It is about 15 hours difference.

Q. And, similarly, that difference is a matter of importance, for the reasons you have described?

A. Yes.

Q. Now, in regard to the shipments from the San Francisco Bay points to Portland, do you understand that the proposed schedule will leave San Francisco late in the afternoon, arriving in Portland at five, six, or seven o'clock the following evening?

A. I understand that.

Q. Does the ability to receive shipments late in the evening mean anything to your company, as compared with the following morning?

419 A. It means a lot of difference; it means the difference of getting a transport on the road that night as compared with holding it over for the following day.

Q. If you had such service available, would you use it?

A. Yes; we certainly would.

Q. Do you have any shipments south-bound from Seattle?

A. Yes.

Q. How often would you say shipments from Seattle would move along Highway 99?

A. I would hazard a guess and say, I believe, three or four days every week there would be shipments coming through.

Q. Are the weights of the shipments from Seattle as heavy as from the San Francisco area?

A. No.

Q. What would be the weight of the shipments moving from Seattle?

A. It would vary from 75 to 150 pounds, depending upon the size of the shipment.

Q. What would be the average weight of the shipments from the San Francisco Bay area?

A. 150 pounds to 300 pounds.

Q. Assuming that a service from Seattle tonight would be made available to such a point as Eugene by noon tomorrow; would such a service be available to you at the present time?

A. Not to my knowledge; I don't believe I am familiar
420 with it.

Q. Would such a service be valuable to you in the conduct of your business?

A. The faster we could get merchandise to any point the more

interested we are in the service. The better chance we have to sell in that territory.

Q. Let me ask you: In order to make deliveries of commodities originating at Seattle to points south of Portland, have you had occasion to utilize the stage service?

A. Yes.

Q. So that in order to obtain the quickest possible delivery you have used the stage? Was that the purpose?

A. That is right.

Q. Now, in utilizing the services of the passenger stage lines, do they give you pick-up and delivery service?

A. We deliver our own merchandise to them, at their terminal, and they, in turn, deliver it to the terminal at the other end, and the customer has to pick it up at the other end.

Q. If you had a service that would make deliveries on Highway 99 to points as far south as Eugene by noon the following morning, would that take the place of the present use of the stage lines?

A. In the majority of the cases; yes.

Q. So that, insofar as you have given consideration to the problem of service, is it your testimony that the service
421 applied for, if granted, will be of material benefit to your business?

A. We are definitely interested in faster service.

Q. And you will use it?

A. Yes.

Q. Is it your desire that the Interstate Commerce Commission grant the authority so that the service may be made available to you?

A. Yes; it is.

Mr. IVERS. May I ask: Do you propose to make deliveries at Portland after the arrival at six o'clock in the evening?

Mr. BEROL. If it is a rush shipment, and it is desired, of course it will be available.

Mr. HEDGES. Do I understand that the Oregon-Nevada-California Fast Freight is going to serve Eugene out of Portland southbound.

Mr. BEROL. Just a minute. I think that we did offer a stipulation in our first hearing that we would not serve points between Portland and Eugene, including Eugene, and therefore I will request the testimony that I have elicited from this witness, covering the Seattle shipments south-bound as far as Eugene be deemed stricken from the record.

Mr. IVERS. Only as far south as Eugene?

Mr. BEROL. Off the record, if you please, Mr. Examiner.

Chairman TERRIL. Off the record.

422 (Discussion off the record.)

Chairman TERRIL. Do you wish to modify your statement, Mr. Berol?

Mr. BEROL. Yes; if the Board please. I will state that I was erroneous in referring to the elimination of service between Portland and Eugene. When I mentioned Eugene, that should have been applicable to points south as far as Drain; and therefore the testimony of this witness, in so far as it involves the south-bound movements to any points north of Drain, including Drain, may be deemed stricken. That is, any service to any point north of Drain will be deemed as stricken, on the south-bound movement.

Chairman TERRIL. How extensive in volume are your shipments from the south, moving into the points which you serve from the south, into Portland?

The WITNESS. It amounts to quite a volume.

Chairman TERRIL. Could you state that in terms of monthly tonnage?

The WITNESS. No; I could not.

Chairman TERRIL. Can you state about what the average weight of the shipments would be that are involved?

A. I would say, from 100 to 300 pounds per shipment.

Chairman TERRIL. And did you testify that those shipments were moving almost daily north-bound from the Bay area?

The WITNESS. That is right.

423 Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ELLIS:

I assume your principal interest in this proposed faster service is in connection with more or less emergency shipments of parts that you do not normally stock in your Portland warehouse, or your Portland stores; is that correct?

A. Correct.

Q. As to your normal merchandise shipments, the commodities that are frequently marketed, I assume you make up your orders in time so as to constantly have on hand a sufficient supply to meet the normal demands of your trade?

A. We are drawing on even some of our faster moving merchandise that moves out of there every week; sometimes every day.

Q. I assume you endeavor, on your faster moving merchandise, to keep a sufficient stock on hand so that a matter of 12 to 15 hours on a shipment would not cause you any inconvenience? or cause any inconvenience to your customers?

A. We have endeavored to do that, of course.

Q. So that you would be able to take care of normal demands, you have enough on your shelves to take care of 15 to 24 hours in advance?

A. That is one point I would like to bring out that would clarify that statement. We operate a complete automotive machine
423½ shop, and it is impossible for us to anticipate our needs in that particular end of the business. We have motors of all types coming into the shop at all times, and when a type of motor comes in, it nearly always necessitates a particular piece of merchandise, which we could not possibly anticipate.

424 Q. My question dealt with the more normal, fast moving merchandise and parts in which you deal, and I am asking you if it is not true that, on those commodities, you endeavor to carry a sufficient stock to meet your usual demands?

A. The way I understand it, our business is divided into two parts—our machine shop and our store. In the parts, on fast moving merchandise, we naturally anticipate our business needs, and we carry stock to carry us over from 24 to 48 hours; in our machine shop we cannot anticipate that business.

Q. From the standpoint of the shop, what is the relative volume of shipments to the shop as compared with the other department?

A. I would say it would be three to one in favor of the store.

Q. Three to one?

A. That is about it.

Q. You do utilize truck service at the present time from San Francisco to Portland?

A. Yes.

Q. Whose services have you used?

A. The one I recall is Mitchell.

Q. Have you ever used the services of the Consolidated Freightways and the Oregon-Nevada-California Fast Freight?

A. Oh, yes.

Q. How recently have you used their service?

A. I couldn't tell you that; I don't handle the traffic.

425 Q. What other carriers have you used?

A. Well, I have seen shipments from Pierce.

Q. Those shipments were from what points?

A. I couldn't tell you. We have Pacific Truck shipments coming in, as I recall.

Q. Can you tell us what service you have received from the Pacific Truck Express on freight originating at San Francisco destined to your Portland place of business?

A. No; I could not. The only service that I have checked on with the Pacific Truck Express is relative to the service that they give us into Tillamook; and that service we use daily.

Q. Can you tell us the time in transit on the line of Mr. Mitchell, that you referred to, between San Francisco and Portland?

A. No; I am not definitely sure.

Q. Do you know what time of day deliveries are made by that line on San Francisco shipments to Portland?

A. As I recall, they come in in the morning.

Q. Have you utilized the services of the Pierce Auto Freight Lines from San Francisco to Portland, if you know?

A. No; I don't know.

Q. You don't know?

A. No.

Q. Do you know what their operating time is at present?

426 A. No; I do not.

Q. Has the service which has been rendered to you, in this case, in conjunction with the Consolidated system, by the applicant, been a satisfactory service?

A. Do you mean from the time angle, or from the handling of the merchandise?

Q. Either or both from the time angle and the handling of merchandise?

A. So far as the handling of merchandise is concerned, we have no fault to find with the service. So far as the time element is concerned, I believe it has been the best that we could get. But we are interested in just as fast a service as it is possible for us to get out of Frisco.

Q. I assume that if a carrier came along and offered to give you a 15-hour service out of San Francisco, you would support such a proposal?

A. That is right.

Q. Did you ever complain to the Consolidated or to anyone else about the time in transit between San Francisco and Portland?

A. Not to my knowledge; I don't handle the traffic.

Q. As a matter of fact, until you were approached by representatives of the applicant in this case, did you know what the time in transit was on your shipments between San Francisco and Portland?

427 A. Yes; I did.

Q. You did know that?

A. Yes.

Q. But you can't tell us now what it is from any of the lines used?

A. I know that if we order our merchandise at five o'clock it is here the second morning.

Q. That is, it is delivered to you the second morning?

A. Yes. Sometimes we pick it up. It depends on how much of a rush we have got.

Q. Do you know whether or not the Pacific Truck Express or any of the other carriers now operating at the present time give, or have in the past given, service as fast as that proposed by the applicant in this case?

A. Not to my knowledge.

Q. You do utilize, as I understand it, the bus service on emergency shipments at the present time?

A. You mean the stage?

Q. Yes; the stage.

A. Yes.

Q. Those are unusual or entirely emergency shipments, I take it, that you ship that way?

A. The stage orders—those orders are all emergency orders, and they generally stipulate delivery by stage.

Q. I assume your customer is required to assume the extra cost incurred by reason of the rapid delivery?

428 A. He pays the cost of the stage only. He does not pay the pick-up and delivery service, which we are put to at this end.

Q. Do you have any shipments of small parts by air express?

A. Yes.

Q. In that case, do you assess that cost against the shipper? Do you assess the charge incidental to the extra-fast service which he desires?

A. If he specified the same; yes.

Q. And if you could get from the truck line, at no additional cost, the equivalent of the high-speed express service, or of the air express service, you would be glad to get it? That is right isn't it?

A. We are vitally interested in time saving.

Q. Does it matter to you how much time saving is accomplished?

A. Yes.

Q. In other words, you are primarily interested in time saving, but you have no notion as to how it should be accomplished, but are interested in having it happen?

A. I don't quite follow you.

Q. Isn't it the results that you are after, or do you have any particular notion about how the time saving should be accomplished?

A. No. The thing we are really and primarily interested in is getting it as fast as we can; how it is gotten here is

429 a problem for the truck operators.

Q. If you can get it here through more efficient operation of the present carriers, that would meet your needs?

A. If we can get that type of service, and if it would meet the stipulation that this particular company is advancing; if you can save 12 or 15 hours, it might mean that you would get a particular

job, whereas, if you could not, you would lose it. It would mean the difference between getting a particular job and losing it.

Q. Were you given any information by the applicant, or do you have any information as to where the present delays in its service and the service of its connecting carrier, occur?

A. I didn't discuss that with them at all.

Q. Did you have the impression that this carrier was proposing to give service from Seattle and other Puget Sound points, through to Western Oregon destinations?

A. No, sir: I did not. On this matter, they called for Mr. Sites—Mr. Sites handles our traffic—but he was in Los Angeles; and I have not discussed this with Mr. Sites before, except from the time angle.

Q. What are your normal business hours?

A. From 8:30 to 5 o'clock.

By Chairman TERRIL:

Q. Is that true in your branches also?

A. Yes. We comply with the federal law.

Mr. ELLIS. That is all.

430 Mr. FARRENS. If the Board and the Examiner please, before cross-examination I wish to enter the appearance of the Oregon Bus Association in this case. I am serious about that. The Oregon Bus Association is an association whose membership is composed of practically all the operators in the Pacific Northwest, including those which serve between points in the Northwest and San Francisco.

Mr. BROWN. What is their interest in this proceeding?

Mr. FARRENS. The contention is advanced that a service is offered through this applicant which is the equivalent of a passenger service at express rates, which service will take away from the bus operators the revenue they would otherwise receive on their express shipments; and this service, of course, will be done at ordinary freight rates.

Mr. BEROL. I think that testimony might have been applicable between Portland and Eugene; and that testimony, on my motion, I asked to be stricken. However, I have no objection to Mr. Farrens entering an appearance for the Oregon Bus Lines. I was just wondering if someone was going to enter an appearance on behalf of the United Air Lines.

Cross-examination by Mr. FARRENS:

Q. Was the service that you mentioned in lieu of the express service, limited solely to Eugene and Portland and intermediate points, or would you use that faster service proposed by the

431 applicant as between Portland and San Francisco, and as between Portland and Medford?

A. I think, insofar as the bus service is concerned, if I gave the impression that we used the bus service into Frisco, or if you got that impression, I didn't mean it.

Q. What is the fact?

A. The fact is, when an emergency shipment comes into Portland, we will say, from Seattle, the merchandise is picked up here by our company and delivered to the stage depot, and sent out by stage.

Q. How far south is that? Is that as far south as Medford?

A. In some instance; yes.

Q. Now, if the speed of delivery is so important to you from San Francisco to Portland, why wouldn't you use the faster service of the busses for those points?

A. Our emergency runs to heavy merchandise, and express is very high.

Q. All of it?

A. No. Our average shipments from the warehouse in Frisco, such as tractor pistons, and paint—it doesn't take much to make up 100 pounds.

Q. I am talking about emergency shipments.

A. Our average pick-up out of Frisco is emergency.

Q. That leads me to this point: As I understand your testimony, do you propose to use this fast service between San Francisco and Portland only in the event of an emergency?

A. Not entirely. We have our regular merchandise,
432 which is rolling out of there regularly, which comes up by truck.

Q. Does some of it come by rail also?

A. A good deal of that is handled out of Frisco, and, unless we specify in a routine manner, it results in some of it moving by rail.

Q. Now, what would be your policy if this applicant is granted this certificate, or if he is granted rights from Medford to Portland and began giving you fast emergency service, such as you have described; would it be your policy to turn the balance of your nonemergency shipments over to that company?

A. So far as I am concerned, I will use the fastest service I can get.

Q. On all the business, as well as the emergency business?

A. I don't stipulate on any particular service that we will use; I don't speak for Mr. Sites.

Q. What I am trying to get at is this: What effect will it have on the allocation of your business? Will your company patronize the service of this applicant in the future on the nonemergency shipments, if they are given the rights to service so they can give you the emergency service? Will you favor this company?

A. We would probably give them a reasonable portion of the business. Naturally, if they gave us better service, we would use them more.

433 Q. In other words, the granting of this application, in your opinion, would result in this applicant not only getting the emergency service, but also the nonemergency movements?

A. No; I wouldn't say that.

Q. I want to know, or what I am trying to get at, is what would be the position of your company?

A. I was giving my impression; but I still don't handle the traffic of the Smith Auto Parts Company.

Q. It is your impression that their ability to give you the emergency service would entitle them to at least a substantial share of the nonemergency business which is now being handled by other companies?

A. To a certain extent; yes.

Q. Have you ever used the Railway Express Agency for your emergency business?

A. Yes.

Q. Would you transfer the business which you have previously given to them, to this carrier in emergencies?

A. Some of it, perhaps.

Q. All of the business which you are now talking about is emergency business which this carrier could handle if this certificate is granted, which is now being handled by some other carrier? Is that correct?

A. Certainly, that is correct.

Q. You would turn that over to this carrier, whether that

434 emergency business now moves by rail or truck?

A. Well, they would get a share of it. As I say, I cannot speak for Mr. Sites.

Q. Would there be any exception to that?

A. We would probably give it to them, generally.

Q. Well, would there be any exception to your general conduct?

A. The situation would be in emergency shipments, which shipments could be shipped by bus; some small packages come in by air express, and we might still use those. I don't know. I don't speak for Mr. Sites.

Q. What I am trying to get on this record is this: If this applicant furnishes you this emergency service that you have been talking about in your testimony, all of this service represents transportation business which is taken away either from the busses, the Railway Express, the railway, or other trucking companies now serving between San Francisco and Portland?

A. The emergencies would go to them.

Q. And it would be taken away from some other company which now has that business?

A. Yes.

Mr. FARRENS. That is all.

Cross-examination by Mr. IVERS:

Q. Does your company use the services of the Los Angeles-Seattle Motor Express?

A. I couldn't say as to that.

435 Q. Is it your understanding that this applicant is going to maintain its terminal open in the evening so that you can receive deliveries in the evening after six or seven o'clock?

A. That is my understanding.

Q. Are you familiar with the fact that at the present time all merchandise leaving San Francisco in the evening via the Los Angeles-Seattle Motor Express is in the terminal here at six or seven o'clock the following evening the same as this applicant proposes?

Mr. BEROL. I wonder if I might make an inquiry of counsel. I recognize that undoubtedly at some subsequent time you will demonstrate it, but I would like to know at this time whether or not the Los Angeles-Seattle Motor Express is actually serving San Francisco on any quantity shipment. The reason I ask——

Mr. IVERS (interposing). My answer is "yes" on any quantity shipments.

Mr. BEROL. Let me ask you then—I am referring particularly to the BMC8 application of the Los Angeles-Seattle Motor Express, which was heard some time ago, last February, I believe, in Seattle, and my impression was that they proposed to serve San Francisco only as an off-route point on certain minimum shipments.

Mr. IVERS. You are speaking of the Colletti application.

Mr. BEROL. That was not true of the Los Angeles-

436 Seattle Motor Express?

Mr. IVERS. No.

Mr. BEROL. I have no objection to the question.

Mr. IVERS. Will you read the question, Mr. Reporter?

(Question read.)

A. The only thing I know about the Los Angeles-Seattle——

By Mr. IVERS:

Q. Answer the question, please. Are you familiar with the facts?

A. No; not as to the exact hours.

Mr. BEROL. Let him explain it.

Mr. IVERS. Yes, I will let him explain it.

By Mr. IVERS:

Q. You may now explain your answer.

A. I would say, that in a period of about a year and a half—about a year and a half ago—I was in the capacity—I was not in my present capacity at that time. I have been with the company for eleven years, and know something of their operation. I believe that something like two years ago we tried out the Express service at that time; for what reason it was discontinued, I could not tell you.

Q. Is it your testimony that it has been discontinued?

A. So far as we are concerned, I don't know that we use it; I don't know.

Q. You don't know whether you use the services of the Los Angeles-Seattle Motor Express?

A. I don't know.

437 Q. Is it your testimony that you have not received shipments from the Los Angeles-Seattle Motor Express during the last month?

A. No:

Q. Have you?

A. I don't know.

Q. You don't know?

A. No. I was relating experiences in the past.

Q. These emergency shipments that you speak of, what do they consist of?

A. Almost everything; pistons and pins.

Q. Isn't it a fact that you stock pistons and pins?

A. That is right.

Q. Don't the emergency shipments, rather, involve such things as crankshafts, axles, and such things that you cannot carry in stock because of the variations in size, and so on?

A. We carry axles in stock.

Q. You carry in stock odd sized axles?

A. Yes.

Q. You have emergency orders for odd sized axles and crankshafts that you do not have on hand?

A. Yes; of course. However, we have a warehouse out there, with many different sizes.

Q. Generally speaking, standard items are carried in your stock, your local stock?

438 A. What you you term "standard items"?

Q. Equipment that is generally in use and needed.

A. I might add, we carry pistons in stock of some 150 to 200 motors; and we service in the neighborhood of 1,000 motors in the territory in Washington and Oregon.

Q. You do considerable repair work on motors for these transportation companies?

A. That is right.

Q. Do you happen to do that for the applicant?

A. That I don't know.

Q. In the instances where you indicated that you were in a hurry to receive the parts in the evening, when the trucks are brought into the terminal, you stated it would be a matter of considerable importance to you. Now, let me ask you this: If emergency service is to be done at night, you charge a higher price than you can if you do that work in the daytime; is that not a fact?

A. I will first state that we can't take any trucks into our establishment.

Q. What work do you do at night? Well, let me ask you this: What work you do at night after the day shift is over—you charge a higher rate for that than you do for the ordinary day rate?

A. According to the union scale.

Q. In other words, it is time-and-a-half after the first shift?

439 A. That is right.

Q. Don't you believe that in an emergency, when you receive an emergency shipment, you should pay a higher freight rate, just as you charge a higher rate when you perform emergency work in your plant?

A. It would seem logical.

Mr. IVERS. That is all.

Chairman TERRIL. That seems to be all.

(Witness excused.)

Mr. BEROL. I will call Mr. Lewis.

DON B. LEWIS was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name to the reporter, please?

A. Don B. Lewis.

Q. Where do you reside, Mr. Lewis?

A. Portland, Oregon.

Q. What is your business or occupation?

A. President of the Rapid Transfer & Storage Company.

Q. What is the Rapid Transfer & Storage Company?

A. A city cartage operator of a public warehouse, engaged in the distribution of pool car shipments, and so on.

Q. Will you describe briefly what your transportation experience has been?

440 A. Well, for the past eight years I have been connected with the Rapid Transfer & Storage Company and pool car business; ten years previous to that, I was traffic manager for Montgomery Ward & Company in Portland; eight years previous to that I was in the rate department of the Union Pacific System.

Q. Are you familiar in a general way with the nature of the application pending here?

A. Yes.

Q. You understand that the applicant, the Oregon-Nevada-California Fast Freight, is offering a through truck service between San Francisco Bay area on the one hand and the Portland area on the other.

A. Yes, sir.

441 Q. Now, do you have occasion in the conduct of your business to move any shipments between the Portland area on the one hand and the San Francisco Bay area on the other, and to and from intermediate points?

A. Yes; we do.

Q. Between what points?

A. Between San Francisco and Portland, and between San Francisco and Oregon points.

Q. As to those movements between San Francisco and Portland in so far as you are concerned, where do they originate, at Portland or San Francisco?

A. At San Francisco, principally.

Q. How frequently would you say that you have occasion to make such shipments?

A. Practically every day.

Q. Would you give me an estimate of what the daily or weekly volume of such shipments would be?

A. Our weekly volume amounts to approximately four carloads, averaging 30 tons to the car; and approximately 20 to 25 lcl.

Q. Now, as to the movement that moves from Portland to points in Oregon, are those points located on highway 99?

A. Some of them are.

Q. Are there any located at points south of Drain on Highway 99?

442 A. Yes.

Q. What would you say the volume of such shipments would be?

A. Those are principally lcl shipments, and the volume would approximately be three or four tons a day.

Q. Are those shipments moving in interstate traffic?

A. Not altogether.

Q. What portion of them would you say moved in interstate traffic?

A. Oh, I would say it would be about 10 percent.

Q. And then from Portland to points in northern California, do you have any movements?

A. No; we don't.

Q. What transportation facilities do you use in the transportation of your commodities at the present time?

A. The transportation facilities we use are rail service of the Southern Pacific and the Great Northern, and the truck service of the Consolidated-Oregon-Nevada-California Fast Freight combined service; and we have used, also, the Cascade Fast Freight.

Q. You say you have used them. Are you now using them, at the present time?

A. No.

Q. Why not?

A. Just from a matter of preference for other services.

Q. Do you have now the combined services of the Con-
443 solidated Freightways and the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. In so far as your business is concerned, do you prefer a through service from San Francisco to Portland to the service available to you to Portland at the present time?

A. Yes; we would.

Q. Will you state why?

A. Our business is very competitive, that is, the delivery of merchandise for our accounts and the handling of pool car distribution service, because of the fact that there are numerous public warehouses and others engaged in the distribution service; and the speed with which we handle those distributions and deliveries of shipments greatly affects our business and the continuance of our ability to hold our customers.

Q. Having in mind the service that is offered by the applicant, leaving Portland approximately eight o'clock in the morning, to make delivery to Oregon points south of Drain on the afternoon of the same day, is that a service that is available to you at the present time?

A. Not to my knowledge.

Q. Is that a service that would be helpful to you in the conduct of your business?

A. Yes; it would.

Q. Generally, based upon your experience, is it your view, for the satisfaction of your needs and requirements, the pres-
444 ent existing services between the San Francisco Bay area and the Portland area are or are not adequate?

A. Well, I would say that the addition of a through, direct

service would be advantageous from our standpoint, and, in our opinion, because of the competitive angle, of having two different lines, or more lines, that could be used from time to time, because of failures and other difficulties that might occur, it would be very preferable to have more than one.

Q. If the services proposed here were authorized by the Commission, would you use them?

A. Yes.

Mr. BEROL. You may take the witness.

By Chairman TERRIL:

Q. You have shipments out of Portland into northern California?

A. Just to southern Oregon.

Q. Is the movement of those commodities designated from a point in the East, and broken up from the pool car shipments here in Portland?

A. In some cases; in a minority of the cases.

Q. Are those the only interstate shipments, those that are so designated, for delivery in southern Oregon?

A. Yes; that is right.

Q. In what volume would that be?

A. That is approximately 10 percent of our business.

Q. About 10 percent?

445 A. That is about all.

Q. Would that same 10 percent include both interstate and intrastate?

A. No. That is my estimation of the interstate business.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ELLIS.

Q. As I understand your testimony, what you are interested in here primarily is a direct through service to points in Southern Oregon?

A. No; we are interested in a through service from San Francisco or the Bay District to Portland.

Q. You ship from San Francisco Bay to Portland?

A. Yes, sir.

Q. Do you have any office or place of business in the San Francisco Bay area?

A. No.

Q. Where is your forwarding and carloading business carried on?

A. At Portland, Oregon.

Q. Do I understand then that you assemble at Portland shipments that originates in San Francisco?

A. That is right.

Q. And you ship merchandise from San Francisco to Portland, where it is loaded in cars for shipment to the Middle West or Eastern destinations?

A. No; we don't handle anything going to the Middle
446 West or Eastern destinations.

Where do the shipments that you handle, which have originated in San Francisco, go?

A. Throughout the Pacific Northwest, including southern Oregon.

Q. Do you control the routing on those shipments?

A. Yes; we do.

Q. Will you give us an illustration of the character of the commodities that you handle in that way?

A. Well, we have pool cars of floor covering, as an illustration, that comes up from San Francisco, wherein a portion of it will go into our warehouse as stock for subsequent delivery to our customers throughout the Pacific Northwest.

Q. You mean, it comes by rail from San Francisco to Portland?

A. In some cases.

Q. Did you ever ship pool cars by truck from San Francisco to Portland?

A. Not what we term pool cars; we have shipped straight carloads, in other words.

Q. Carload quantities by truck?

A. Carload quantities by truck.

Q. Will you proceed with your explanation?

A. As I was stating, a number of those cars, or a good part of that stock goes into the warehouse here, and a portion of it is immediately reshipped to customers in the Pacific Northwest.

Q. Now, is your principal interest in the movement of
447 merchandise from the Bay area into Portland, or is it in the south-bound service to southern Oregon out of Portland?

A. It is in both directions.

Q. From the standpoint of efficiency of the service at the present time, what would you say as to whether or not your service from Portland to Southern Oregon is satisfactory and adequate to your needs?

A. Well, I would say in some cases we have had difficulties, and I again repeat, from our standpoint, it is preferable to have competitive services that can be used when one or more might find difficulty, or have trouble.

Q. Have you had more difficulty in your service from Portland to southern Oregon than from San Francisco to Portland?

A. I would say, yes, because we have smaller shipments.

Q. Considering the difference in the character of the service, what would you say has been less satisfactory, the service from

Portland to southern Oregon or the service from San Francisco Bay to Portland?

A. Well, we have had our attention drawn to it, because of more numerous shipments, than from San Francisco to Portland.

Q. You mean from Portland to southern Oregon?

A Yes.

Q. What services do you use from Portland to southern Oregon?

A. We have used the services of Pierce; we have used the services of the Pacific Truck Express; we have used the
448 services of the Consolidated; and also, the Southern Pacific; and some other carriers that I cannot recall just now.

Q. Those are all direct services without any interchange of freight?

A. Yes.

Q. You think that is where most of your difficulties would result in the handling of your merchandise? Let me change that. Do you think most of your difficulties have resulted in the past because of interchange? Or, has most of your trouble been in the southern Oregon territory?

A. That is where most of it has been.

Q. Now, do I understand you to say that, notwithstanding the fact that you have all of these carriers, the rail service, the Pacific Truck Express, Pierce Auto Freight Lines, the Consolidated Freightways, and you think a few others, perhaps, that you still need more competition to southern Oregon?

A. I believe it is advantageous to have healthy competition.

Q. Do you think the competition that exists there now is not healthy competition?

A. No.

Q. How much more competition would you suggest, or do you suggest more competition to make it healthy?

A. I would say a reasonable amount; and, generally, in our experience, when a new service comes into a territory, generally they give us excellent service.

449 Q. Better service while it is new? Is that the idea? Do you think it is better when it is new than after it has been in the field a year or so?

A. I wouldn't say that; but entering a new territory would undoubtedly bring with it newer ideas and newer operating abilities that probably the other services that are now existing are not utilizing or using.

Q. Now, what specific troubles have you had in connection with your shipments to southern Oregon points?

A. Well, we have had difficulties with claims. We have had to handle claims for our customers, and we have had difficul-

ties with the delivery of C. O. D. shipments; we have had difficulties with delays in the collection of C. O. D. shipments; principally those two factors: deliveries and collections.

Q. You have those in connection with your business east-bound and north-bound, as well?

A. More or less; yes.

Q. There isn't anything unusual or abnormal about the southern Oregon situation, is there?

A. No.

Q. Now, with respect to the San Francisco business, do I understand that is moving now by way of the service of the Oregon-Nevada-California Fast Freight and Consolidated?

A. Some of it is.

Q. Are you aware of the fact, or have you been aware
450 of the fact that the Pierce Auto Frelight Lines are now operating a direct daily service between Portland and San Francisco Bay points?

A. Yes; I read of that in a circular that was publicized.

Q. Have you attempted to utilize that service?

A. No; we have not.

Q. Can you tell us why you have not?

A. Just my personal preference of using other carriers.

Q. As I understand you, you formerly used the services of the Cascade Fast Freight?

A. Yes.

Q. But discontinued that because of personal preference for other carriers?

A. That is right.

Q. Then you would not know what the present schedules of the Cascade Fast Freight, the Pierce Auto Freight Lines, or any of the other carriers that are now serving between the San Francisco Bay area and Portland, are?

A. Yes. I have taken the trouble to ascertain, and I understand there is quite a universal 24-hour or thereabouts service from the Bay District to Portland.

Q. Would you recommend that more carriers be authorized to serve the territory between San Francisco Bay and southern Oregon?

A. Up to a certain extent, I would.

Q. You mean that you think there is need for more carriers?

451 A. I believe a reasonable number; of course, one can go too far either way.

Q. Are you in a position to state what you think would be a reasonable number?

A. Well, four or five carriers would be reasonable; four or five trucking carriers such as I have referred to.

Q. Have you had any discussion with the applicant in this case or any of its officers or attorneys concerning the performance of delivery or pick-up service in the city of Portland, Oregon?

A. No, sir; we have not.

Q. What is the commodity that you ship north from San Francisco, or what commodities do you ship north in carload lots?

A. I related a moment ago floor covering as one commodity; canned goods is another; insecticides and orchard sprays is another; well, general commodities of all types and kinds. Those are the principal ones, however.

Mr. ELLIS: Oh, I think that is all.

Cross-Examination by Mr. FARRENS:

Q. With what carriers at Portland does your company have agency contracts for pick-up and delivery service?

A. Do you refer to rail or truck carriers?

Q. Both?

A. Both?

Q. Yes.

452 A. With practically all of them.

Q. You have an agency contract with the Consolidated Freightways?

A. Yes.

Q. You have an agency contract with the Pierce Auto Freight Lines?

A. Yes.

Q. With the Union Pacific Railroad?

A. Yes.

Q. With the Oregon Electric Railroad Company?

A. Yes.

Q. With the S. P. & S. Railroad Company?

A. Yes.

Q. You don't have an agency contract with the Southern Pacific Company?

A. No, sir.

Q. Now, with the trucklines which do linehaul service between Portland and San Francisco, what amounts are paid to you on your pickup and delivery service in Portland? What do they pay you for your pickup and delivery service?

Mr. BEROL. Just a minute. May I have the question read?

(Question read.)

Mr. BEROL. Let me make this statement: in so far as I am concerned, I would have no objection whether you did or did not testify to that; however, do you personally have any objec-
453 tion to disclosing what your private arrangements may be with particular private carriers?

The WITNESS. I have no aversion to it.

Mr. BEROL. No objection.

A. We receive 8 cents per hundredweight.

By Mr. FARRENS:

Q. Is that equal in the case of all these companies?

A. Yes.

Q. In no instance have you received ten cents or more?

A. No.

Q. Then your personal preference for the service of this applicant to the Consolidated, you are prepared to say, was in no way influenced by the question of drayage allowance?

A. No, sir.

Q. How about the absorption of drayage charges?

A. We have no arrangements for any absorptions whatsoever.

Q. Have you ever sought them?

A. No, sir.

Q. Upon what basis has this preference which you have shown for this truckline been grounded? In other words, what is the basis for your preference for this truckline?

A. It is made on the basis of former service and a knowledge of the personnel of the companies.

Q. When you say knowledge of the personnel of the companies, you mean elements of friendship for the personnel of
454 the companies?

A. Not necessarily confined to friendship, but a knowledge of the personnel involved, over my various traffic experiences.

Q. Have you in the past used the services of the Pacific Truck from San Francisco to Portland?

A. I have not from San Francisco; no.

Q. Have you been advised that during a considerable period prior to this date, the Pacific Truck Express has been giving daily through service from San Francisco?

A. I understand they have done so, but I don't know for sure.

Q. Now, if a through service from San Francisco is a matter of either convenience or necessity to your company, why haven't you used the services of the Cascade Fast Freight, the Los Angeles-Seattle Motor Express, or the Pacific Truck Express on your San Francisco-Portland business?

A. Again, I repeat that it has been more or less a preference for the Oregon-Nevada-California Freight Line; just the same

as some others might prefer the other lines that you have referred to.

Q. Well, is the personnel preference based on business reasons in this case?

A. It is, so far as choosing the particular line. However, it is essential that we have a speedy, reliable and dependable service.

Q. Let me ask you this: if this applicant receives the certificate he is applying for, and your preference were to change so
455 that, instead of this applicant, you would prefer the services of the Pacific Truck Express, would that control your business?

A. Surely.

Mr. FARRENS. That is all.

Mr. HEDGES. No questions.

Chairman TERRIL. Any further cross examination?

Cross-examination by Mr. IVERS:

Q. You stated that you were not paid by any of these companies any more than 8 cents for pick-up and delivery so far as San Francisco was concerned. Do they pay you in cases of other territory affected by this application more than 8 cents? In other territories other than San Francisco?

Mr. BEROL. I will object to that as entirely incompetent, irrelevant and immaterial, and outside of the issues of this proceeding.

Chairman TERRIL. Will you read the question?

(Question read.)

Chairman TERRIL. The objection is overruled.

The WITNESS. May I have the question again?

By Mr. IVERS:

Q. You stated that under the agency contracts you receive 8 cents for pickup and delivery service as far as San Francisco is concerned, and no more than that; do you receive more than 8 cents from the same carriers, so far as pickup and delivery in this territory is concerned, other than San Francisco?

456 A. Oh, yes.

Examiner KEPHART. In the territory affected by this application?

The WITNESS. Yes.

By Mr. IVERS:

Q. In the territory affected by this application, other than San Francisco?

A. Yes.

Q. How much?

A. We receive 10 cents from the Pacific Truck Express.

Q. And do you receive more than 8 cents from the Consolidated?

A. No, sir.

Q. Or from the Oregon-Nevada-California Fast Freight?

A. No, sir.

Q. Are you familiar with the fact that the Consolidated also has an application pending to extend their operation south from Medford to San Francisco?

A. Yes.

Q. As between the Oregon-Nevada-California Fast Freight and the Consolidated, assuming both of them received their certificates for through service, would you, as a matter of preference, prefer one over the other?

A. Yes; if I may explain.

Q. Go ahead.

A. I would use the Oregon-Nevada-California Fast Freight.

Q. You would?

457 A. Yes.

Q. As a part of the dissatisfaction that you have had in your southern Oregon territory, has that arisen from the use of the Consolidated Freightways?

A. No; I wouldn't say so; wholly.

Q. You would say that any part of it has?

A. Yes.

Q. You stated that your business was very competitive as far as San Francisco and Portland movements were concerned.

A. That is correct.

Q. who are you in competition with?

A. We are competitive with all the present transfer and warehouse companies located in the City of Portland.

Q. Those transfer and warehouse companies also have storage accounts such as you have?

A. Yes.

Q. And over what lines do they ship the stocks they have on hand?

A. I have no knowledge of that.

Mr. BEROL. If you know.

The WITNESS. I have no knowledge.

By Mr. IVERS:

Q. Is it that competitive situation that dictates that you should use certain competitive truck lines and not others?

A. Yes, it is; where speed and dependability and reliability is concerned.

458 Q. Whom do your competitors use that are more reliable and more speedy than the ones you use?

A. I have no knowledge.

Q. But your competitors do have a more speedy service than you have?

A. I have no knowledge of that.

Q. How do you know then that you have to have faster service in order to be more competitive?

A. The nature of our business is a very competitive business; and we have to get the fastest possible service, together with reliability and dependability.

Q. Aren't you now getting the fastest possible service available?

A. We think we are.

Q. You think you are?

A. Yes.

Q. So that, competitively, now you are in as good a situation as you could be otherwise under any other condition?

A. We think we are.

Q. Now, you were asked a question as to whether or not you control the routing on these shipments. Do you control the routing on any of these shipments?

A. Practically all of them.

Q. Are there some of the shipments on which you do not control the routing?

459 A. Yes; there are a few.

Q. What would those few constitute?

A. There might be cases wherein, in a car, there is an order or two that have been sold by a certain salesman to a customer in Southern Oregon who has designated the definite carrier.

Q. What about the shipments that you receive from truck lines? Do you have control of the routing over the truck lines?

A. My answer applies to that, just the same as to the previous question.

Q. Would you enumerate the types of commodities for which you have storage accounts?

A. Oh, such as roofing, flooring, and spray material. That is characteristically carload and boat freight. However, a great deal of it comes by truck.

Q. Isn't it a fact that most of that comes by rail car or boat?

A. No, I don't think so. When I come to think of what comes by truck and what comes by rail and boat, I think most of that comes by truck, with exception of the spray material.

Q. How about your roofing material?

A. Some of that comes by boat.

Q. And your spray material?

A. Spray material comes mostly by truck, I believe.

Q. I thought you said a moment ago that most of it came by boat?

A. Well, some of it does.

460 Q. In fact, most of it does?

A. Well, it is in the minority.

Q. How does your spray material compare with the volume of roofing and flooring?

A. There is less of it.

Q. The volume is not as great?

A. That is right.

Q. Do you think that if there were five truck lines operating in this territory giving you a through service, that that would be sufficient?

A. I would think so.

Mr. IVERS. That is all.

Cross-examination by Mr. FARRENS:

Q. I would like to ask this witness one additional question which was brought out by the further cross examination. Does the Consolidated Freightways engage in the business of pool car distribution on its own account?

A. Yes; they do.

Q. To that extent, are they competitive to your business?

A. Decidedly so.

Q. Has that had any effect upon the question of preference as between carriers?

A. Yes; it might have some effect.

Mr. FARRENS. That is all.

461 ARTHUR W. LEE was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you give your full name to the reporter?

A. Arthur W. Lee.

Q. Where do you reside?

A. Portland.

462 Q. What is your business?

A. Auto Freight business.

Q. Under what name do you do business?

A. Lee & Eastes.

Q. You are a partner of that firm?

A. Yes.

Q. Now, where does Lee & Eastes operate in the transportation of general commodities?

A. From Portland to Seattle, and from Seattle into the Yakima Valley.

Q. Are you familiar with the nature of the application pending here?

A. Generally; yes.

Q. You understand that the Oregon-Nevada-California Fast

Freight is proposing a through truck service between the San Francisco Bay area and Portland, Oregon?

A. I do.

Q. Have you discussed their proposal with any of the officers of the Oregon-Nevada-California Fast Freight?

A. Yes, we have.

Q. Now, insofar as your operations between Seattle and Portland are concerned, is that a daily operation?

A. Yes, it leaves every night.

Q. Approximately what time in the evening do you leave Portland for Seattle?

463 A. From six o'clock on until seven or seven-thirty; sometimes later than that.

Q. Do you as a rule have more than one schedule?

A. Yes, we do.

Q. Have you ever discussed with the applicant or any of its officers the question of connections with its schedules arriving from Portland, arriving in Portland from San Francisco?

A. I have.

Q. Now, have you determined the feasibility of making connections with that line, if it is permitted to serve Portland?

A. We have discussed that with them, and we can make the connections.

Q. If you did make connections with that line, you would be able to deliver freight in Seattle after leaving San Francisco at what time?

A. Second morning delivery.

Q. You leave Seattle for Portland in the evening?

A. Yes.

Q. Approximately what time?

A. Just as soon after six o'clock as we can get the freight loaded; and the last one would be around eight or nine o'clock; between eight and nine o'clock.

Q. What is the time of arrival in Portland?

A. They are generally in here between five and six o'clock in the morning.

464 Q. Have you discussed with this applicant the feasibility of having your schedules from Seattle connect with the schedules of the Oregon-Nevada-California Fast Freight leaving Portland at eight o'clock in the morning?

A. We have.

Q. Could that be done?

A. That can very easily be done.

Q. Have you discussed with this applicant the feasibility of entering into joint rates?

A. Yes, we have.

Q. Will it be possible to do so?

A. Yes.

Q. Let me ask you; do you at the present time participate in any traffic originating on your line destined for points in the San Francisco Bay area? Or originating in the San Francisco Bay area destined to point along your line?

A. Yes, we do.

Q. What kinds of connections do you have between your territory, or between the area that you serve and the California area at the present time?

A. We have the Pacific Truck Express, the Pierce Auto Freight Line and the Consolidated Freightways.

Q. Now, with respect to the lines that are available to you at the present time, are they in a position to give you an adequate outlet for the traffic originating over your territory to points in California?

465 A. I don't believe I get your question.

Q. Maybe I had better reframe it. Insofar as the services are available at the present time, do they give you a complete and sufficient outlet for traffic originating on your line destined to points in California?

A. It has not been too good so far.

Q. And, similarly, are you in a position to receive any substantial amount of freight originating at points in California destined for points on your line?

A. We have not on California freight; we have not been receiving much.

Q. Do you generally know what the reason for that is?

A. Well, I don't know the reason for freight originating in California; it seems to me that they don't have very much, or, if they do, some other line is getting it. South-bound freight originating at Seattle, it has been hard to get through, largely on account of the unreliable service at the present time.

Q. Now, if the services of the Oregon-Nevada-California Fast Freight were made available between San Francisco and Portland areas, what effect would that have upon the traffic which you originate for California points?

A. It would give us a good outlet, and we could originate quite a bit of the freight, if a reliable daily service were given.

466 Q. Now, at the present time, insofar as traffic handled jointly by the Oregon-Nevada-California Fast Freight and the Consolidated is concerned, are you in a position to substantially participate in that?

A. We don't get it.

Q. Why not?

A. The Consolidated connects at Medford and goes north to

Seattle; the Consolidated carries it down to Medford, and the Oregon-Nevada carries it on to San Francisco. There have been instances when it has originated down in San Francisco, or in the California territory, which has been consigned to us out of Portland, and still we didn't get it.

Q. In other words, the Consolidated is directly competitive with you as between Portland and Seattle?

A. Yes.

Q. Do you believe that the inauguration of a service such as is proposed by the Oregon-Nevada-California Fast Freight will be of any assistance to you in the conduct of your business?

A. I think so.

Q. And would it be your purpose to cooperate with them in the interchange of freight?

A. It would be.

Mr. BEROL. That is all.

By Chairman TERRIL:

Q. Would you contemplate interchange of equipment?

467 A. If the volume was such that it was reasonable to do it, we would.

Q. Do you maintain any refrigerated equipment on your line?

A. We have some; yes.

Q. Would you contemplate an interchange of that, if there was sufficient volume?

A. If it called for refrigerated equipment, we would.

Q. Is there at present available over your route truck or trailer-load lots for interchange at Portland with connecting carriers south?

A. Not that we have.

Q. In what average volume do you have freight for interchange at Portland for points south at the present time?

A. How far south do you mean?

Q. Well, moving into southern Oregon or into California Bay points?

A. Well, not much into the Bay District, but we have quite a bit into southern Oregon that we are transferring at Portland.

Q. Would that amount to one ton or five tons a day?

A. Well, it would amount to—I couldn't say for sure—to a ton-and-a-half at least into southern Oregon.

Q. And, conversely, how much are you picking up at your interchange at Portland at the present time to haul into Washington?

A. Very little.

Q. Can you place it in tons, if not in a day put it in a

468 month's time?

A. Oh, I wouldn't say. We have very little that we get from the southern Oregon territory.

Q. And you expect that to increase materially if this application goes through?

A. We hope so.

By Mr. BROWN:

Q. Do you have joint, through rates at the present time between Seattle and the San Francisco Bay points with the Pierce Auto Freight?

A. Yes.

Q. With the Consolidated?

A. No.

Q. With any other carriers aside from Pierce?

A. Pacific Truck Express.

Mr. BROWN. That is all.

Cross-examination by Mr. ELLIS:

Q. How many carriers do you have in competition with you for traffic between Portland and Puget Sound points?

A. We have seven competing lines; that is, excluding the rail lines.

Mr. BEROL. Is that seven in addition to yourself, or including yourself.

The WITNESS. Seven in addition to ourselves.

By Mr. ELLIS:

Q. Have you been given any assurance by the applicant
469 in this case that you were to have an exclusive connection with them, so far as Puget Sound and Seattle are concerned?

A. No.

Q. Or do you know whether or not similar proposals have been made to most, if not all, of your competitors?

A. I don't knw. I only know that no exclusive proposal has been made to me.

Q. Isn't it true that one principal reason for your lack of truckload quantities or trailerload quantities of through freight to California points is the fact that there are a number of through carriers operating from Puget Sound to California points, and the further fact that you do have competitors that run over the same highway between Puget Sound and Portland?

A. That would have a bearing upon it.

Q. As I understand it, you do have joint, through rates with the Pierce Auto Freight Lines?

A. That is correct.

Q. To points served by that line?

A. Yes; we have.

Q. Have you had any discussions with Mr. Pierce, or anyone representing his line, concerning interchange of through trailers in the event sufficient tonnage can be developed to justify that type of service?

A. We have talked about it just a very little bit.

470 Q. Would you be agreeable to entering into such an arrangement with the Pierce Auto Freight Lines, if a sufficient through tonnage could be developed for interchange of trailers?

A. Yes; we would.

Q. Do you believe that plan would be practical?

A. I think so, if the volume called for it.

Q. A part of your difficulty in the past in obtaining a satisfactory connection south, I assume, has arisen from the fact that the Pierce Auto Freight Lines, until recent weeks, was operating only weekly service and not a daily service?

A. Yes; that was a good reason for it.

Q. You are aware of the fact that the Pierce Auto Freight Lines now, and for some weeks past, have inaugurated a daily service.

A. I thought he had; I knew he said that he was going to; I didn't know whether he had or not.

By Mr. BROWN:

Q. If this application was granted, would you attempt to cancel your joing, through rates with the Pierce Auto Freight Lines?

A. No.

Mr. BROWN. That is all.

Cross-examination by Mr. FARRENS:

Q. If the present joint service of the Consolidated Freightways and the Oregon-Nevada-California Fast Freight were speeded up so as to effect a delivery that would connect with your schedules, would that satisfy you?

471 A. No.

Q. Has the applicant discussed that with you?

A. No.

Q You say that would not be satisfacory, if the Consolidated Freightways and the applicant here were to speed up their service so as to be able to make connections with you, in the same manner as the applicant here proposes? Would that satisfy you?

A. No; it would not. I just stated so before.

Q. And is the reason that it would not because you would not get the business?

A. That is right.

Q. It would be hauled from Portland to Seattle by the Consolidated?

A. That is it.

Q. Have you discussed the division of rates with this applicant?

A. Yes.

Q. Have you reached a satisfactory adjustment on that question?

A. Yes.

Q. Let us assume, for the purpose of following up the question, Mr. Lee, that this application was to be granted, and that you were going to make joint, through rates with this applicant, and that the joint, through rates which you are hopeful of were established; if that is done, how would you handle the matter of
472 billing of the interchange shipments at Portland, the junction point?

A. The billing?

Q. Yes.

Mr. BEROL. Are you going through all of the 14 points?

Mr. FARRENS. I think I shall.

Mr. BEROL. I have no objection.

By Mr. FARRENS:

Q. I didn't tell you that Mr. James had stated there would be some difficulty on that score.

A. I imagine that would be handled with the same routine as it is handled now, as anybody else does.

Q. What is that?

A. I am not a bookkeeper.

Q. Would you bill it at Portland, if it is shipped from Portland?

A. We do now; we rebill it.

Q. Do you find the rebilling is objectionable at the interchange point?

A. Oh, it is not objectionable; we rebill everything that comes in.

Q. Now, of course, errors in assessing freight rates could be made either on the line of the Oregon-Nevada-California Fast Freight or on your line?

A. Yes; certainly.

Q. Do you anticipate you would have difficulty about the correction notices being interchanged between the carriers?
473 A. I don't think so. We all make mistakes, and we have to rectify them; it has not been bad in the past.

Mr. BEROL. I now object to this on the ground that it is improper cross-examination. I might suggest to Mr. Farrens that I don't know what good this testimony is going to do, unless there is going to be stipulated into the record——

Chairman TERRIL. What is your objection, Mr. Berol?

Mr. BEROL. That is improper cross-examination.

Chairman TERRIL. The objection is overruled.

By Mr. FARRENS:

Q. There are sometimes when you have astray shipments, shipments that get lost?

A. Yes, sir.

Q. Does that require either communication between your company and the applicant, or between the various offices in your company, in the event a shipment was lost?

A. It might.

Q. Would you anticipate that it would be quite an obstacle to your interchange of business at Portland?

A. I don't believe so; we do it every day, and have done it for years.

Q. Now, shipments interchanged at Portland which involve c. o. d. delivery; would you anticipate that those interchanges would entail considerable difficulty in the way of getting remittances back?

Chairman TERRIL. It is recess time. Do you intend to go
474 thru the 14 points, seriously, Mr. Farrens?

Mr. FARRENS. Yes, I do.

Chairman TERRIL. If so, we will take a recess, and you can take them up afterwards.

Mr. FARRENS. I think we had better have a recess.

Chairman TERRIL. We will have a recess for ten minutes.

(Short recess.)

Chairman TERRIL. Come to order, gentlemen. Proceed, Mr. Farrens.

By Mr. FARRENS:

Q. To shorten this cross examination as much as I can, I will attempt to do it in this way: Mr. Lee James, in the application of the Consolidated Freightways, just heard, contended that there were 14 reasons why his company in connection with the Oregon-Nevada-California Fast Freight could not give satisfactory service to the public by making interchange at Medford. I have gone over the first four reasons. I am advising you what the next four were; the fifth disadvantage or difficulty that Mr. James spoke about related to the settlement of claims, where there was a doubt as to whether the carrier should accept liability; the sixth disadvantage was because of the errors made in the acceptance of shipments; the seventh was the inability of the joint carriers to agree in the establishment of new rates; the eighth was the inability of the managements to get cooperation between the employes of the two companies; the ninth was the loading of the
475 through trailers by reason of the difference of the State weights, referring to the States of Washington, California,

and Oregon; the tenth related to the maintenance of different types of trailers, which made interchange inconvenient, or, at least, he stated that as an obstacle to the interchange service; the eleventh obstacle or difficulty which Mr. James mentioned was because the connecting service did not give a consignee, expecting a shipment, the same information that a through line could give him of the movement of the shipment; the twelfth disadvantage was the misrouting of shipments at the junction points; the thirteenth disadvantage was a disadvantage inherent in the routing of equipment and its interchange at the junction point; the fourteenth disadvantage was because of the actual rehandling of freight at the junction point.

Mr. SCHAFER. What is that thirteenth point that you mentioned, Mr. Farrens?

Mr. BEROL. Mr. Schafer, I should think you would know what the thirteenth disadvantage was.

Mr. FARRENS. The thirteenth disadvantage, as I got it, was a disadvantage inherent in the routing of the equipment and its interchange at the junction point.

Mr. SCHAFER. Thank you.

By Mr. FARRENS:

Q. In your anticipation of interchange with this applicant, would you regard any one or more of the reasons I have
476 recited to you as bona fide or substantial reasons why you and the applicant in this case could not perform a through interchange at Portland, and give efficient transportation service between the points north of Portland and points south of Portland?

A. No; I can't see where there would be any real obstacles there. Every point that you brought out, there might be some trouble with it, and there might be some mistakes, however, you make them on your own line. There is a transfer of freight and equipment, and it doesn't much matter whether you run that through your own line, or not. The mechanics of handling the freight are the same on your own line as they are on the connecting line. There is nothing in the reasons that you have given so far that would appear to be of any consequence; that is, they are difficulties that are in the business itself, and they do not necessarily arise because of the fact that a connection is made between two carriers. Those difficulties have not been burdensome as far as we are concerned, with the lines we connect with.

Q. Now, you mentioned the interchange of trailers and equipment as being something you would expect to accomplish if the volume was sufficient?

A. Yes.

Q. Would the same rule apply in the case of a through operator as in the case of an interchange operator at Portland?

A. Certainly.

477 Mr. FARRENS: That is all. If the Board please, I want to serve notice on all cocnsel present that, at the conclusion of the testimony of this witness, I will ask that counsel stipulate that the testimony of this witness be accepted, or transferred, or whatever you may wish to call it, to the Consolidated Freightways case; and, in that connection, if there is a refusal on the part of counsel to make that stipulation, then I want to serve notice on such counsel now, that his opportunity to cross-examine is present, and that objection will not be available to him, or that ground for objection will not be available to him if I offer the testimony as an exhibit in the Consolidated case, which I certainly will do if the stipulation is refused.

Mr. SCHAFER: Will you read that to me again, Mr. Reporter?

(Statement of Mr. Farrens read as above recorded.)

Mr. SCHAFER. I will resist such stiuplation, and I will cross-examine now. I won't know until after cross-examination whether the situation here is parallel with the situation faced by the Consolidated at Medford, and, without such knowledge, I certainly could not make an objection at this time, or decide upon what the objection would be.

Mr. BEROL: Before we become too involved, I will ask Mr. Farrens if he would have any objection to stipulating, in so far as the particular testimony which he elicited from Mr. Lee, that he consider Mr. Lee as having been his own witness,

478 because now it appears that we are about to cross-examine Mr. Lee on what has already been cross-examination; I don't want to get it complicated too far, and I don't want to become enmeshed in the private battle between Mr. Farrens and Mr. Schafer, nor do I want it to become a part of this application. Have you any objection to so stipulating, Mr. Farrens?

Mr. FARRENS: I don't think it is a matter of particular importance, but I am willing to stipulate, as you suggest; but I want to call your attention to the fact that it was cross-examination, to this extent, that he, as applicant, was contending that an interchange at Medford is not practical.

Mr. BEROL: Maybe we would save time if I would withdraw my request for cross-examination.

Mr. FARRENS: I think so.

Mr. BEROL: Where are we now? I understand that Mr. Schafer was going to cross-examine Mr. Lee on Mr. Farrens' cross-examination. Is thta going to be the order or are we going back to Mr. Ellis for further cross-examination?

Chairman TERRIL: I think it would be better to have Mr. Ellis complete his examination so that, once we are around the table, no necessity will exist for further examination.

Cross-Examination (continued) by Mr. ELLIS:

Q. Are you using the service of the Pierce Auto Freight Lines between your territory and points south as far as Medford at the present time?

479 A. Yes; we are.

Q. What have you to say as to whether or not that service has been satisfactory or otherwise?

A. It has been very satisfactory.

Q. Do you have any joint rates with the Consolidated Freightways between your territory and points south of Portland?

A. We have not.

Q. Have you ever attempted to get them?

A. We have.

Q. Were they declined?

A. They said they were not interested in joint rates with competing carriers who competed on a part of their territory.

Q. Do you know whether or the Consolidated Freightways on shipment originating at Seattle and destined to points south of Portland, move those shipments on through equipment through Portland, or are those shipments reloaded at this point?

A. They are reloaded at Portland.

Mr. ELLIS: That is all.

Cross-Examination by Mr. IVERS:

Q. Mr. Lee, of the eight carriers operating between Portland and Seattle, the Heyser's Nickle Plate Line is one, is it not?

A. Yes.

Q. The Heyser's Nickle Plate Line has through rates with Mitchell Brothers at the present time?

480 A. Mitchell Brothers?

Q. With Mitchell Brothers, who operate south? Do they not?

A. I presume so; I don't know for sure.

Q. The P. H. T. is one of the operators between Portland and Seattle?

A. It is.

Examiner KEPHART: For the record, what is P. H. T.?

The WITNESS: The Pacific Highway Transport.

By Mr. IVERS:

Q. They have through rates with the Cascade Fast Freight, do they not?

A. It is my understanding they have.

Q. The Consolidated is another one of these eight carriers?

A. Yes.

Q. At the present time, it has through rates with the Oregon-Nevada-California Fast Freight at Medford?

A. Yes.

Q. And then Pierce has through rates with all of the eight carriers, except the Consolidated?

A. I don't know whether they have or not. I know they have quite a few. I have never tried to find out whether they have or not.

Q. Your principal interest in this case is that you would like to see another carrier serving California points, terminating at Portland, with whom you would have a connection?

A. Yes; it would give me another outlet.

481 Q. At the present time you have competition with direct carriers who operate from California, operating straight through to Seattle?

A. Yes.

Q. Now, in the event that you had another carrier receiving the right to operate from Portland south, the effect of it would be that you would get a short-line haul on the traffic that is now either moving over the through carriers from Seattle south to California or from some of these others that have present concurrences?

A. We would stand a chance to get some of that freight.

Q. And that is where you would get it?

A. Yes.

Mr. IVERS. That is all.

Cross-examination by Mr. SCHAFER:

Q. I believe you said your volume south-bound was about 1½ tons a day, and north-bound it was practically nothing from California?

A. That is pretty close to it, from California.

Q. Why don't you connect with Cascade at Portland?

A. I think we have through rates with them now.

Q. You do have through rates with them?

A. I think so.

Q. Is that an advantageous connection with you?

A. We have received some freight from them; yes.

482 Q. Are they in the same terminal with you?

A. They are not.

Q. Where is the terminal of the Cascade?

A. It used to be at the East Side Terminal; I don't know what

it is called. The Alert Transfer Company owns the building, I believe.

Q. Did you hear Ray Culbertson state that the PHT and the Cascade are terminalled together?

A. I knew they were in the same building.

Q. Is the PHT a competitor of yours?

A. Yes.

Q. Would that have anything to do with the Cascade being a connection?

A. What?

Q. Because they are terminalled with another company, in the same building? Would you expect to get as much business from them?

A. That wouldn't make any difference to me.

Q. What would your expectation be? Would you depend upon the Cascade for a connection north-bound?

Mr. HEDGES. We will object to that.

Chairman TERRIL. The objection is sustained.

By Mr. SCHAFER:

Q. How about the Pacific Truck Express? They are now owned by the railroads, are they not?

A. That is what I heard.

483 Q. And do you expect a very good connection there in the future?

Mr. FARRENS. That is objected to.

Mr. SCHAFER. On what grounds?

Mr. FERRENS. The same grounds as the last objection.

Mr. BROWN. The objection is overruled.

By Mr. SCHAFER:

Q. Do you have any working arrangements with any railroad?

A. We have not.

Q. Would you expect it with any railroad?

A. Hardly.

Q. Outside of the one carrier terminalled with your competitor, what other outlet is there for your line?

A. Pierce.

Q. That is the only line, aside from the other two mentioned?

A. There are other lines that were mentioned; I don't know all the lines that go through Portland; some go through on irregular trips.

Q. On the matter of rebilling a volume of freight, can you tell us how long it would take your office to bill 55 tons of miscellaneous shipments?

A. It depends on how many items you had.

Q. Assuming they were miscellaneous shipments. Can you give us a rough estimate?

A. That would be hard to do.

Q. You think that you could do it? You think you could
484 bill 55 tons of miscellaneous freight in one hour?

A. Rebilling?

Q. Yes; and manifesting?

A. Not one person, but the office force could.

Q. How many billers would you need?

A. There is no way of judging that. You have to see the bills to tell what they are.

Q. Now, in the case of rate errors, where one of your raters has made a mistake in rating, can you correct that faster on your own line than when it moves through a foreign line?

A. I don't know; you can't correct it any faster; I don't believe so.

Q. You think you can correct a rate on a foreign line just as fast?

A. If we catch it at the Portland end, yes; if not, it would take longer.

Q. You would have to catch it when it came through on the foreign line?

A. Either that way, when it comes to us and is turned over to us, or before we turn it over to them; it is practically the same time.

Q. Now, have you had any experience tracing on a foreign line for lost shipments?

A. Yes; I have.

Q. Can you get as fast a response from a foreign line as
485 from your own agent?

A. That depends on the line itself.

Q. That was an evasive answer.

A. I would answer it by saying "yes" and "no." I would say "yes" if the line was all right; I would say "no" if it was not.

Q. How do you remit c. o. d.'s?

A. I am not familiar with the office set-up.

Q. Are you familiar with the rest of the things you have testified about, such as the rebilling?

A. To a certain extent.

Q. Where does your familiarity end?

Mr. BEROL. I will object to that as being argumentative. I have no objection to cou'sel developing such facts as are within the peculiar knowledge of the witness, but the question directed to the witness is purely argumentative.

Mr. SCHAFER. He says he is not familiar with the office set-up. I might drop it right here on the ground that the witness is not

familiar with the office details; I think that could be stipulated to, and I could drop it right here.

Mr. BEROL. I am not so stipulating. I thing I am representing the witness.

Mr. SCHAFER. I have lost track of who is representing the witness.

Chairman TERRIL. Proceed with the cross-examination.

By Mr. SCHAFER:

486 Q. On the matter of settlement of claims, where the damage is undetermined, and where the shipments move to or from a foreign line, do you not have difficulty in investigating the claims?

A. Yes; you are referring to damage claims?

Q. Yes.

A. Yes; but that doesn't make any difference what line it is on.

Q. Isn't it a fact that you have to reach an accord, in most instances, with the foreign line?

A. What do you call an accord?

Q. To get together and agree upon what the responsibilities for the claim might be?

A. Not so much difficulty in that.

Q. You think there is no difficulty?

A. Not so much. Could I give you an example?

Q. Yes.

A. If the shipment goes to a carrier beyond, from Seattle, and the carrier uses his discretion in settling the claim, we prorate that through the regular channels.

Q. Who investigates to find out what has caused the damage, or who caused the damage?

A. If it is at the other end, he investigates it there. If it is at this end, I investigate it here.

Q. Don't you have some interchange of correspondence regarding claims?

A. Yes; certainly we do.

487 Q. I think you will admit, Mr. Lee, that your problem with the small interchanges is not nearly so great as where the volume is great on your interchange?

A. Certainly, the larger the movement there is, the more difficulty there may be, or the more liabilities for claims there will be, but your office force, and your clerical force and your whole organization will be larger accordingly, and, in proportion, the difficulty will be no greater.

Q. But your problem between Seattle and Portland is less serious than it would be if you had a greater volume of interchange?

A. What do you mean?

Q. For instance, if 75 percent of your tonnage went beyond Portland, at the interchange point, and only 25 per cent was destined to Portland, or, vice versa.

A. I don't think that would be so much difficulty. We have run pretty nearly half of our shipments on what you call foreign shipments.

Q. With the various connections?

A. Yes.

Q. How many connections do you have at the present time?

A. I wouldn't say offhand, but I would say there are 30 or 40, at least. I am not sure.

Q. Now, in naming through rates from Seattle to San Francisco, you and your connecting carrier have to get together and agree upon your splits; isn't that true?

488 A. Yes.

Q. Now, when you name a rate between Seattle and Portland, you don't have anyone to confer with or to get into agreement with on any split of the rate; you decide whether you do or do not file that rate?

A. When we decide to file a rate, we have to go through the regular channels.

Q. You tell the Tariff Bureau to file this rate for you, and, assuming the through rate has been decided upon, you still don't have any quarrel over splits on your line?

A. No; we have no quarrels amongst ourselves.

Q. In the matter of equipment, your mechanics are familiar with your own type of equipment?

A. Yes.

Q. You have your own mechanics?

A. Yes.

Q. They work on your equipment?

A. They are supposed to.

Q. Do you think they would do a better job than a total stranger would do on your motors?

A. I think so.

Q. Would you be willing to send your power equipment to a foreign line, where it would have to be serviced and repaired on a foreign line?

A. We have done it.

489 Q. Would you be willing to do it?

Mr. BEROL. Obviously, he would not have done it if he was not willing to do it. He stated that they had done it, and that question should answer itself.

By Mr. SCHAFER:

Q. Your previous answer was that you would not expect a for-

eign mechanic to do as good a job on your motors. Would you be willing to do it?

Mr. BEROL. I object to that. His answer was just as obvious and as straightforward as could be.

Mr. IVERS. In addition to that, there is no proposal for the exchange of power equipment.

By Chairman TERRIL:

Q. Would you do it in the future?

A. If it could be arranged. If provisions are made for it, we would do it. It is not a thing we would do all over the country, but if provisions are made for it, we would do it.

By Mr. SCHAFER:

Q. You testified that 55 tons of miscellaneous freight could be unloaded, checked off, reloaded, checked on and rebilled and remanifested in an hour's time?

A. I don't believe your question concerned any reloading and rechecking.

Q. What have you to say about those matters?

A. It would take a big crew to do that.

Mr. SCHAFER. That is all.

Redirect examination by Mr. BEROL:

490 Q. May I be permitted to ask a question of my own witness now?

A. What is the question?

Chairman TERRIL. There isn't any question yet.

Mr. FARRENS. I have some questions to ask. Would you rather precede me or follow me, Mr. Berol?

Mr. BEROL. I don't want to precede you. I think I would rather follow you.

Chairman TERRIL. How many more questions, Mr. Farrens? It seems to me this has been around the table nearly two times now.

Mr. FARRENS. This question is occasioned by Mr. Schafer's questions.

Chairman TERRIL. If you will confine yourself to those questions which relate to Mr. Schafer's cross-examination.

Mr. FARRENS. I will confine myself to that.

Cross-examination by Mr. FARRENS:

Q. If a through line was operating over a distance, say, as from Seattle to San Francisco, and a claim arose over loss of freight, there would be a necessity for interchange of correspondence on your own line?

Mr. BEROL. Before that question is answeree, I would like to have it understood that the question relates to the application of

the Oregon-Nevada-California Fast Freight, I will object to
491 it on the ground that is incompetent, irrelevant and immaterial, based on facts not in evidence, and, in fact, contrary to the facts in evidence.

Mr. FARRENS. If I understand that counsel is taking the position in this case that none of the 14 points advanced by the Consolidated Freightways are relied upon by him in support of his application, then I think the objection is well taken. If not, I think the question is pertinent to this application. If he espouses those 14 points, certainly this question is relevant.

Mr. BEROL. I have not espoused them, but I want to remain free to espouse what I see fit between now and the end of the hearing.

Mr. FARRENS. I will submit to the ruling of the Board.

Mr. BROWN. Personally, I would like to hear more about the 14 points. I don't know how the other members of the Board feel about it, but if it is not in the record now, I will certainly want to ask Mr. Gritsch a few questions about it.

Mr. BEROL. Mr. Gritsch will be available to answer any and all questions the Board may see fit and desire to ask.

Mr. BROWN. I am certainly interested in finding out what the position of the applicant is in regard to those 14 points or any of them that the applicant sees fit to adopt.

Mr. BEROL. My only point is this: I would like to state a specific reason for objecting to the question, and that is this: That
492 the question is directed to and predicated upon through operations between Seattle, Washington, and San Francisco, California, I want to call your attention to this fact, and that is that, so far as this carrier is concerned, he is proposing a through operation as between Portland and San Francisco, and not as between Seattle and San Francisco.

Mr. BROWN. I appreciate that, and I note your objection.

Mr. FARRENS. Now, may we have an answer to the question?

Chairman TERRIL. Suppose the reporter read the question.

(Question read.)

A. We have it on our own line; we sometimes have to have a lot of correspondence to find out what has happened to a shipment.

Q. And the longer the route, the more necessity for correspondence, where you pass through different divisions on your own line?

A. I imagine, if you had several divisions, it would become more difficult. However, whether it is one line or several, there would be no difference; at least, there shouldn't be.

Q. Now, Mr. Lee, isn't it a fact that the normal situation on through rates between your line and another connecting line is a predetermined matter——

A. Predetermined?

Q. That is, you predetermine the principles upon which those divisions are made, so that if a new rate is made the new divisions are automatic?

A. That is correct.

493 Q. And where a liability is undetermined upon an unsettled claim involving two or more carriers, they settle that claim upon the basis of a predetermined arrangement? The basis for the split in liability is predetermined beforehand, is it not?

A. Yes, that is right.

Q. So the liability of each company will automatically follow, when the amount of the claim is determined?

A. That is right. That is normally true.

Q. Normally?

A. That is right.

Mr. FARRENS. That is all.

Mr. BEROL. Are you through, Mr. Farrens, and may I proceed?

Mr. FARRENS. That is all.

Chairman TERRIL. Proceed, Mr. Berol.

Redirect examination by Mr. BEROL:

Q. Questions were asked regarding the availability of the Pierce Line as a connecting carrier, in addition to the others mentioned. Do you know of any arrangement between the Pierce Auto Freight Line and the Pacific Highway Transport?

A. I don't know of any arrangement; I know the PHT gives nearly all of their freight, which is destined to California, to the Pierce Lines, and the Pierce Lines give nearly all of their freight to the PHT, which originates in California, or which has been handled by the Valley Express.

Q. The PHT is a competitor of yours?

494 A. Yes; they are.

Q. And to all practical intents and purposes, the Pierce Auto Freight Lines has not been available to you as a satisfactory connecting line?

A. It has not been, in that sense of the word, no.

Q. Now, having been questioned about the 14 points, we will come back to the issue; it is still your desire that the Oregon-Nevada-California Fast Freight be permitted to serve this area so as to connect with your line?

A. That is right.

Mr. BEROL. That is all.

495 Mr. FARRENS. Then I will ask if counsel will consent to the extension of this testimony into his record, so that it may be extended physically into the record of his case?

Mr. SCHAFER. You will find in Rule 13 the way provided for

extending testimony from one record into another. The conditions are set forth in the Rules of Practice. I, of course, can't take any exception to it if the rules are complied with.

Mr. FARRENS. I guess it may be understood that that arrangement may be carried out.

Mr. SCHAFER. I am going to oppose it.

Chairman TERRIL. Let us discuss it off the record.

(There was a discussion off the record.)

Chairman TERRIL. Call your next witness.

Mr. BEROL. Mr. Myers.

N. D. MYERS was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name for the reporter, please?

A. N. D. Myers.

Q. Where do you reside?

A. Hillsboro, Oregon.

Q. What is your business?

A. You mean my business?

Q. Yes.

A. Traffic Manager.

496 Q. With what company?

A. Ray Maling.

Q. What is the business of the Ray Maling Company?

A. Packers of fresh fruits and vegetables; processors of cold pack.

Q. What do you mean by "processors of cold pack"?

A. Well, do I have to explain the process?

Q. Just very briefly what it is.

A. When I say "cold pack," I refer to fruits placed in barrels, in the fresh stage, and then placed in refrigeration and frozen.

Q. In other words, what is commonly termed as frozen fruits?

A. Right.

Q. Are you familiar in a general way with the nature of the application pending here?

A. Yes, sir.

Q. You understand that the applicant proposes a through service from Portland, serving the intermediate points between Portland and the San Francisco Bay points, leaving 8:00 o'clock in the morning, and arriving in the San Francisco Bay points approximately the same time the following morning; and also, an evening schedule leaving Portland daily?

A. Yes.

Q. You understand the equipment to be used is equipment containing mechanical refrigeration?

A. Yes.

497 Q. Do you have occasion to transport commodities between points in Oregon on the one hand and points in California on the other hand?

A. Yes.

Q. Between what points in Oregon, or from what points in Oregon do you ship, principally?

A. Hillsboro, Portland, and perhaps Salem.

Q. To what points in California?

A. Primarily Los Angeles, and also the San Francisco Bay area.

Q. Is the industry of fruit processing a comparatively new one?

A. I would not say so.

Q. Is it developing?

A. Yes.

Q. Is it developing in a substantial proportion?

A. Might I say, there are certain processes which are developing in substantial proportions. When I am talking about a certain process, I am talking about berries that are merely placed in cold storage and frozen. There isn't any other process that I am interested in.

Q. Is the business of your company in that particular commodity substantially increasing?

A. Yes.

Q. Now, is a service such as proposed by the applicant here available to you at the present time, that you know of?

A. No adequate service.

498 Q. Now, if the service, as proposed by this applicant, is authorized, will that be of any advantage to you in your business?

A. Very much so.

Q. Will you use the service?

A. Yes.

Q. And based upon the needs of your company, is it your position that the services, as presently existing, are not adequate?

A. Yes.

Q. Now, with the addition of a service such as is proposed by the applicant, would it then be your view that adequate service would be available to you?

A. From what has been presented; yes.

Q. And is it your testimony that you desire the service be authorized?

A. Yes.

Mr. Berol. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. What point do you ship frozen products to?

A. Los Angeles and the San Francisco Bay area.

Q. What motor transport carrier do you use to the San Francisco Bay area at the present time?

A. The names of the carriers?

Q. Yes.

499 A. In many instances, it has been left at the terminals to secure the carrier that would give us the service that we wanted.

Q. What terminal?

A. The Portland Ice & Cold Storage.

Q. They are your agents?

A. No, sir.

Q. Just what is their place in the transportation picture?

A. They are a warehouse where we store our goods, in the absence of knowledge of a carrier to give us adequate service; and I have requested them to get carriers for us.

Q. Do you know what carriers they have located and used?

A. The Pacific Refrigerated Truck Line.

Q. Any others?

A. I believe one called the Cascade; however, I am not familiar with it.

Q. Does that answer apply to shipments to Los Angeles as well as to San Francisco?

A. Yes.

Q. Have you personally arranged any transportation service for your shipments to California points?

A. Yes.

Q. Whom did you arrange that transportation with?

A. The Pacific Refrigerated Truck Line.

Q. How recently has that been?

500 A. Oh, a matter of a few weeks.

Q. Have you made any personal investigation to find out, thru the regular truck terminals, what refrigerated service is available between your territory and the California points?

A. Yes.

Q. Were you able to find any other carriers other than the three that you have named?

A. I was not able to find any that had satisfactory equipment, so far as I was concerned. They did not have satisfactory equipment for the shipment of our commodities.

Q. What type of equipment is necessary to meet your requirements?

A. Well, the temperature on certain items must be held at 10 degrees above zero.

Q. And you were unable to find any other carriers that had equipment that would afford that service?

A. I found no carrier that could offer that service.

Q. Are you familiar with the services of the Colletti Fast Freight?

A. What was the name, please?

Q. Colletti Fast Freight.

A. No, sir.

Mr. BEROL. Is counsel referring to a carrier whose rights have just been denied by the Commission?

Mr. ELLIS. Not to my knowledge.

501 By Mr. ELLIS:

Q. Are you familiar with the service, the thru service, being rendered at the present time by this applicant in conjunction with the Consolidated Freightways?

A. On general cargo; yes.

Q. Were you not aware of the fact that the refrigerated trailers of the applicant in this case have been moving through from Portland to San Francisco daily during the past year?

A. The Consolidated's Portland office advised me that they were unable to handle the business.

Q. Because of its peculiar character?

A. I don't know. I called to them, offering them the business, and they advised me that they didn't believe that they could handle it.

Q. In what lots did you offer them the business?

A. I don't know as I can tell you just what quantity it was. This business is classed as l. c. l. business, ranging anywheres from 500 pounds to 4 tons.

Q. Did they tell you at that time that they could not guarantee you a service at 10 degrees above zero in quantities less than trailer or truckload lots?

A. No, sir.

Q. What did they tell you?

A. Well, apparently at the time I wanted to ship from Hillsboro, they didn't feel that they had service that was adequate; that was the way I understood it.

502 Mr. ELLIS. That is all I have.

Cross-examination by Mr. FARRENS:

Q. Isn't it a fact that the General Foods Products & Sales Corporation is the organization which determines the sales and distribution policies of your company?

A. I have no connection with the organization that you speak of.

Q. It has no connection with your company?

A. None whatsoever. I am employed by the Ray Maling Company.

Q. I understand. But what relationship exists between the Ray Maling Company and the General Foods?

A. None.

Q. There is no relationship?

A. The Ray Maling Company is in no way related to that corporation; and there is no connection that I know of.

Q. Who are the stockholders?

A. I am here as a witness, and I represent myself as traffic manager; I don't know anything about the ownership of the company other than that I am employed as a traffic manager. Besides, I don't know that I should testify to that, if I knew.

Q. Do you know who controls the Ray Maling Company?

A. I am not a member of the Board.

Q. Do you know who controls it?

A. I am not in a capacity to know anything what pertains to the owners or who controls the company.

503 Q. You are sure the New York office of the General Foods Corporation does not control the policy of your company?

A. I am sure that it does not.

Q. If the New York office of the General Food Products Corporation made the statement that the policy of your company with respect to shipments of the Hillsboro plant products to California points would be to ship in carloads, and make all l. c. l. distributions as nearly as possible from the San Francisco distribution point, from carload shippings, would that effectively control your policy?

A. Absolutely not.

Mr. FARRENS. That is all.

Cross-examination by Mr. HEDGES:

Q. Mr. Myers——

Mr. BEROL. The gentleman now speaking represents the Cascade Fast Freight.

Mr. HEDGES. Thank you, Mr. Berol.

By Mr. HEDGES:

Q. Am I to understand from your testimony that the Ray Maling Company operates a business independently of the freezing that they do for the General Foods?

Mr. BEROL. Just a minute.

The WITNESS. May I ask the Board if it is necessary that I be questioned along this line?

Mr. BEROL. Mr. Myers, I was just about to object. In the first place, it is improper cross-examination; in the second
504 place, it is incompetent, irrelevant, and immaterial; and, on the further ground, I object to the question as having already been asked and answered.

Mr. HEDGES. I am trying to get it straight in my mind just what Mr. Myers means when he says there is no connection between the companies.

The WITNESS. I mean just that.

Mr. BEROL. Just a minute. We have a question pending, to which there has been objection.

Chairman TERRIL. I don't think we are concerned with the private business of the Ray Maling Company, and the objection is sustained.

Mr. IVERS. We are certainly interested in knowing, and I think the Commission would be interested in knowing, who has charge of the routing. That is all we are trying to find out.

Chairman TERRIL. The witness has stated that he is in charge.

Mr. IVERS. I think we are entitled to cross-examine.

Mr. BEROL. That would be cross-examination on the same point how many times? How many times do you want to cross-examine on the same point?

Mr. HEDGES. Until we get the proper answer.

Mr. BEROL. He has already answered.

Chairman TERRIL. Proceed. I have ruled.

By Mr. HEDGES:

505 Q. Is the control of the routing your traffic entirely in your hands?

A. Yes.

Q. How long has it been so?

A. Possibly three or four years.

Q. And there is nobody in your office in Hillsboro that has anything to do with the routing other than yourself?

A. I wouldn't say that. If the president told me to route it some way, of course I would follow his instructions.

Q. Anybody else besides the president?

A. Yes. The sales manager, for instance. I would try to follow his instructions.

Q. Who is the sales manager?

The WITNESS. Is it necessary for me to answer that?

Chairman TERRIL. I think the witness should answer if he knows.

The WITNESS. I really can't see why that is pertinent. I came here and stated my capacity, and I can't see what that has to do with it.

Chairman TERRIL. I think it is within the proper bounds of cross-examination.

Mr. HEDGES. I will reveal to the witness before he answers what my purpose is. I don't want to trap the witness, but I have called on the Ray Maling Company, and I have talked over the matter of routing traffic with an individual other than the man who is
506 now on the stand, who represented to me that he had control of the routing of the traffic. Now, I am trying to find out.

Mr. BEROL. The question has already been asked and answered. If you are in possession of any information, you will have ample opportunity, Mr. Hedges, to give that information to the Board. There is no purpose in proceeding with this after the witness has answered.

Mr. FARRENS. I submit that we are entitled to an answer to the question.

Chairman TERRIL. The objection is overruled.

Mr. BEROL. Will you advise Mr. Hedges who your sales manager is?

The WITNESS. Mr. Logan.

By Mr. HEDGES:

Q. Mr. Logan, the president and yourself would be the only three parties who would have anything to do with the routing of traffic? Is that what I understand?

A. As I prevously stated, I am traffic manager. But any officer would have some control over my routings if he took it upon himself to advise me.

Q. Do you have a gentleman in your organization by the name of Joos?

A. No, sir.

Q. How long has it been since he was connected with your organization?

A. I couldn't say definitely; maybe five years.

507 Q. Who is he connected with?

Mr. BEROL. I will object to that as incompetent, irrelevant, and immaterial. Certainly a lapse of five years should be sufficient to show that he has had no connection with the company.

Mr. BROWN. What is the purpose of that question, Mr. Hedges?

Mr. HEDGES. I just revealed to the witness, Mr. Brown, in a statement a moment ago that I myself had called on the Ray Maling Company and had talked with Mr. Joos, who represented himself as being the man who did the routing of the traffic for both the Ray Maling Company and the General Foods; and I am trying to find out just what the situation is.

By Mr. BROWN:

Q. Has Mr. Joos any connection with your company at the present time?

A. No, sir. May I be permitted to clarify that?

Mr. BROWN. Go ahead.

The WITNESS. I am connected with the Ray Maling Company, Incorporated, which I have stated on several occasions; but the gentleman still insists on questioning me with regard to another corporation; I mean that of the California Packing Company—

By Mr. BROWN:

Q. Who is Mr. Joos?

A. He is an employee of B. E. Maling, Incorporated.

Q. Is he connected with your company?

A. No.

Q. Was he ever connected with your company?

A. He formerly was a Ray Maling employee.

508 Q. How long since?

A. I don't recall exactly, but it was perhaps five years; maybe less.

Mr. HEDGES. I am going to cease my examination, and I want to tender my apology.

Mr. BEROL. Your apology is accepted on behalf of the witness, and timely.

Mr. FARRENS. I want to ask the witness what is the relationship between the two companies, if any?

The WITNESS. I don't know.

Mr. FARRENS. Are they run as separate plants?

Mr. BEROL. Now, just a minute. Again we are delving into the corporate relationships of the two companies, and the witness has stated that he does not know.

Mr. FARRENS. He does know whether they run two plants.

Mr. BROWN. Are you making an objection?

Mr. BEROL. Yes; definitely.

Mr. BROWN. The objection is sustained.

By Mr. FARRENS:

Q. Could you tell me?

Mr BROWN. He said he didn't know.

Mr. FARRENS. He knows whether there are two plants operated by the same or different companies; he certainly does know.

Mr. BROWN. You can take an exception to the court's ruling, Mr. Farrens.

Mr. FARRENS. Then I will say this to the Board and the

509 witness, that, if I have been confused as to who this man represented, I owe an apology to the witness; but if there

is another plant run by a second corporation with a name very similar to the one this man represents, the Board ought to know that.

The WITNESS. As far as I know, there are two separate plants; I have tried to make that entirely clear.

By Mr. FARRENS:

Q. Each one run by a separate corporation?

A. That is what I have tried to tell you.

Mr. FARRENS. Then I am sorry about my cross-examination.

The WITNESS. I am sorry I didn't make it clear.

Mr. BEROL. Mr. Farrens' apology will be accepted on behalf of the witness.

Mr. FARRENS. The use of the word "Mailing" has confused us, with both companies having that name.

The WITNESS. That is conceivable. My name is Myers, and I have been confused with lots of people.

Cross-Examination by Mr. IVERS:

Q. Does your company sell its products through brokers in California?

A. I am not permitted to answer that type of a question. I am not in the sales end.

Q. Are there any brokers in California who, directly or indirectly, control the routing?

A. The consignees control the routing, sometimes.

510 Mr. BEROL. Just a minute——

By Mr. IVERS:

Q. Are there brokers in California who are consignees of your products?

Mr. BEROL. Just a minute. Is that a matter, Mr. Myers, that is in the nature of a business secret?

The WITNESS. It could be.

Mr. BEROL. Then I will object to the question on the ground that it is incompetent, irrelevant, and immaterial. I have no objection to questions which go to determine to what extent the witness controls the routing, but I will object to any question that seeks to ascertain who the customers of that company are.

Mr. IVERS. I don't want to know; I didn't ask him that.

Chairman TERRIL. The objection is overruled.

Mr. BEROL. You may answer the question.

A. I believe he asked me if the California brokers were sometimes consignees?

By Mr. IVERS:

Q. Yes, that is the question.

The WITNESS. Does the Board say I have to answer the question?

Mr. BEROL. Yes.

A. Sometimes.

By Mr. IVERS:

Q. When they are, they control the routing?

A. Not necessarily.

Q. They do, at times?

A. Sometimes they suggest the routing, but not always.

511 Q. When you have consignees other than brokers, do those consignees control the routing?

A. Seldom.

Q. They do, at times?

A. Yes.

Q. What proportion of the time do they control it?

A. On the products we are speaking of, it would be impossible to say; the fraction is so small.

Q. Are there products other than the ones you have in mind, when you state "other than what you are speaking of"?

A. Certainly.

Q. Who controls the routing on the other products?

A. There is open routing; and there is routing that I control.

Q. What are those other goods?

A. Canned goods.

Q. What percentage of that routing do you control?

Mr. BEROL. I will object to that as incompetent, irrelevant, and immaterial. This witness did not testify as to any shipments of canned goods.

Mr. BROWN. What is the purpose of the question?

Mr. IVERS. The purpose of the question is this: this witness has testified as to the necessity for additional service, and he has testified as to the adequacy of service. I want to know who routes his shipments.

512 Mr. BEROL. The witness testified as to the necessity for service with respect to frozen foods, and did not testify as to the necessity for any service with respect to canned goods. It is incompetent, irrelevant, and immaterial.

Mr. IVERS. Very well. I will withdraw the question.

By Chairman TERRIL:

Q. Do frozen foods require special equipment?

A. They must be shipped in refrigerated equipment.

By Mr. BROWN:

Q. Did you have something further that you wanted to say?

A. I am talking about cold pack, which is something altogether different than frozen foods, which I think you are thinking of.

Mr. IVERS. I have no further questions.

Mr. SCHAFER. I have nothing further.

Chairman TERRIL. Is there anything further, Mr. Berol?

Mr. BEROL. That seems to be all; thank you very much.

(Witness excused.)

Mr. BEROL. Mr. Howlett.

O. C. HOWLETT was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name?

A. O. C. Howlett.

Q. Where do you live?

513 A. 44 North Morrison.

Q. Portland?

A. Yes.

Q. What is your business or occupation?

A. Poultry buyer.

Q. How long have you been so occupied?

A. About nine years.

Q. Now, in connection with the conduct of your business, do you have occasion to make shipments to points in California from points in Oregon?

A. I do.

Q. Do you have occasion to make shipments from California to points in Oregon?

A. No.

Q. Are you familiar in a general way with the character of the application pending here?

A. Yes.

Q. Do you understand that the Oregon-Nevada-California Fast Freight is offering a through truck service between San Francisco, California, on the one hand and Portland, Oregon, on the other?

A. Yes.

Q. That is, San Francisco and the Bay points on the one hand?

A. Yes.

Q. And you further understand that the equipment which is proposed to be used is mechanically refrigerated equipment?

514 A. I do.

Q. What commodities do you ship to points in California?

A. Dressed poultry and some canned goods.

Q. Where do those commodities originate?

A. In Portland and the Willamette Valley.

Q. By the Willamette Valley, particularly what points do you have in mind?

A. McMinnville, Albany, Eugene, and Roseburg.

Q. They originate at those points?

A. Some of it in Central Oregon, at points such as Redmond.

Q. What is the volume of traffic that you ship to California points from these Oregon points?

A. Oh, I would say it was in the neighborhood of seven or eight hundred pounds.

Q. Per year?

A. Yes. I mean seven or eight hundred thousand pounds.

Q. Per year?

A. Yes.

Q. Approximately what points in California is this traffic destined to?

A. San Francisco.

Q Do you ship some to Sacramento?

A. Very litle to Sacramento.

Q. Very little?

A. That is right.

Q. What means of transportation have you been using in
515 the past?

A. Refrigerated trucks that run out of here locally.

Q. Have you been able to obtain a local service when you need it, or have you had difficulty?

A. Normally we would have the service; it is not always daily.

Q. Is a daily service of any importance to you?

A. It certainly is.

Q. Now, assuming that the applicant is authorized to institute and conduct the kind of service that is proposed here, would you say that that would be a superior service to anything that is available to you at the present time?

A. Yes.

Q. Would it be of any assistance to you in the conduct of your business?

A. Yes.

Q. Do you feel that a necessity exists for such a service in your business?

A. Yes.

Q. Is refrigeration necessary in the shipping of poultry?

A. Very much.

Q. Will you state why?

A. If poultry get warm in transit, the buyer turns it down, or knocks the price down.

Q. Is time in transit of any consequence to you?

516 A. Yes; it is.

Q. Why is that?

A. There are certain times of the year when we must have poultry in San Francisco at a certain day, at a certain time, to hit the proper market; and it means a good deal of extra money, or extra dollars in case you don't get it there.

Q. That is, you lose money if you don't get it there on time?

A. That is right.

Q. Respecting the markets in San Francisco, what time do they prefer to have poultry?

A. They prefer to have it in the early morning; especially during the week ends.

Q. By early in the morning, what do you mean?

A. By the time they open up in the morning, around eight o'clock, or no later than nine or ten o'clock in the morning.

Q. Now, respecting the transportation of poultry, is interchange from one piece of equipment to another as satisfactory a service as a service which would transport it all the way through on one piece of equipment?

A. No; it is not.

Q. Why is that?

A. The chances of delaying the shipment are greater, and any delay to the shipment of poultry damages the poultry.

Q. Is it your testimony that the existing services are not adequate for the needs of your business?

517 A. That is right.

Q. Now, have you had any experience with other lines on shipments originating at points like Salem, Eugene or Roseburg?

A. Yes.

Q. What has that experience, in the main, been?

A. They have been late in taking the shipments out; there have been times when they were supposed to arrive at a certain hour, when they didn't come in, and they were careless in handling the merchandise.

Q. What has happened to that merchandise when they have been late in arriving?

A. It has been held over until another truck could be obtained.

Q. How long a delay usually ensued as a result of that?

A. From 10 to 12 hours.

Q. Has that been of any particular consequence to you?

A. Yes.

Q. What has the result been?

A. It has spoiled the result in the Southern States.

Q. It is your testimony that a service such as is proposed here, if made available to you, would meet your needs?

A. Yes; it is.

Mr. BEROL. That is all. You may take the witness.

518 Cross-examination by Mr. ELLIS:

Q. I didn't hear whose services you were using to California destinations at the present time from Portland?

A. Normally, we use whoever is available.

Q. What services are available now to you?

Mr. BEROL. He is asking as to the particular lines.

A. Mitchell Brothers, Pacific Coast Motor Freight, and, at times, we have used Pierce.

Q. Have you ever used Cascade Fast Freight?

A. To some extent.

Q. Have you ever used the Los Angeles-Seattle Motor Express?

A. Yes; but their service has not proved quite as satisfactory as we wished.

Q. Have you utilized the services of this applicant in conjunction with the Consolidated Freightways?

A. No; we have not.

Q. Were you aware of the fact that this applicant has equipment leaving Portland six days a week, and that it has been for the past year moving freight from Portland to San Francisco?

A. We knew they had the equipment, and that they made the interchange at Medford.

Q. Have you tried that service?

A. No; we have not.

Q. Can you tell why you have not tried it?

A. It has not been suitable for us.

519 Q. Why wasn't it suitable?

A. We want direct routing on our products.

Q. Didn't you understand that this equipment—didn't you understand that the trailer, the Oregon-Nevada-California Fast Freight trailer, was loaded at Portland and went straight through to San Francisco without being unloaded before it arrived?

A. That is possible.

Q. Do you know of any particular objection to the fact that they might have to unhook the power unit from that trailer at some point between here and San Francisco?

A. Well, there is a possibility of delay.

Q. In unhooking the power unit?

A. Yes.

Q. You think there would be a delay?

A. Yes.

Q. Did the applicant tell you that they might not do that at Medford, or between here and some other point en route to San Francisco?

A. No. I understand they are going straight through.

Q. The important thing is that the trailer should go straight through from Portland to San Francisco without change of the power unit?

A. With the least possible delay.

Q. Have you ever used the services now given by this
520 applicant in connection with Consolidated?

A. No.

Q. The only reason you have not used it is that you understood that the power unit was changed at Medford?

A. That is right.

Mr. ELLIS. That is all.

Mr. FARRENS. No cross-examination.

Mr. HEDGES. No questions.

Cross-examination by Mr. IVERS:

Q. Was the dissatisfaction with the service of the Los Angeles-Seattle Motor Express because the rates were higher on the commodities you ship than the carriers you named?

A. No.

Q. It is a fact that the rates were higher?

A. Not necessarily.

Q. Do you know whether they were or not?

A. I don't believe they are, to my knowledge.

Q. Do you handle the routing of your products for your company?

A. Not all of it.

Q. Does Mr. Norton handle it?

A. Mr. Norton handles a good deal of it.

Q. He handles most of it?

A. Not necessarily.

521 Q. I know; but he does, as a matter of fact?

A. No.

Q. Is he your superior?

A. Yes.

Mr. IVERS. That is all.

Chairman TERRIL. Is there any further examination of this witness?

Mr. BEROL. That seems to be all. Thank you very much.

(Witness excused.)

Mr. BEROL. I will call Mr. Bruce.

GORDON BRUCE was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you give your full name to the reporter.

A. Gordon Bruce.

Q. You reside in Portland?

A. Oswego.

Q. You are here testifying on behalf C. H. Berglund Fish Company?

A. Yes.

Q. Do you have charge of the routing of their shipments?

A. Yes.

Q. Are you in a general way familiar with the application of the Oregon-Nevada-California Fast Freight pending here?

A. Yes.

Q. Now, in connection with the business of the Berglund
522 Fish Company, does it have occasion to transport any commodities between Portland on the one hand and points in Southern Oregon on the other hand?

A. Yes.

Q. Between what points particularly?

A. Between Portland and Klamath Falls, Medford, and Redding.

Q. Now, as to the shipments between Portland and Klamath Falls, are they interstate in character?

A. To my knowledge, they are; yes.

Q. Where do they originate?

A. The bulk of it originates in the State of Washington.

Q. At the time of the origination of the movement in Washington, do you know it is going straight through to Klamath Falls?

A. Yes.

Q. What transportation facilities are available to you between Portland on the one hand and Klamath Falls on the other hand?

A. The express company, particularly.

Q. What other transportation facilities, if any?

A. The Bend-Portland, as I understand it.

Q. The Bend-Portland Truck Line?

A. That is correct.

Q. Have those transportation facilities been of a satisfactory character to the Berglund Fish Company?

A. No.

Q. Why not?

523 A. Because of refrigeration; that is the main reason.

By Mr. BROWN:

Q. You mean the refrigeration has not been sufficient?

A. It was not sufficient; that is right.

By Mr. BEROL:

Q. Now, does any truck line that is serving the territory provide mechanical refrigeration at the present time?

A. No.

Q. Have you had any experience with the efficiency of mechanical refrigeration as compared with wet or dry ice?

A. Yes.

Q. What has been your experience in comparing the three forms of refrigeration?

A. It gets there in better shape in refrigerated equipment.

Q. In mechanically refrigerated equipment?

A. Yes.

Q. It is your testimony that you desire the services of the Oregon-Nevada-California Fast Freight in order that you may utilize it between Portland on the one hand and Klamath Falls and Medford and Redding on the other hand?

A. Yes.

Q. If such a service was made available to you, would you use it?

A. Yes.

Q. Is it your view that it would be beneficial to your company?

A. Yes.

Q. Do you know of any service that is available to Red-
524 ding or Klamath Falls at the present time that is comparable to the service that is here offered?

A. No.

Mr. Berol. You may take the witness.

Mr. Ellis. No questions.

Mr. Farrens. No questions.

Cross-examination by Mr. Hedges:

Q. What kind of fish is it? Fresh?

A. Fresh.

Q. What kind of packing do you have? How is it packed?

A. In ice.

Q. In ice?

A. It is naturally packed in a box; frozen.

Q. And what is the usual size of those boxes?

A. Usually 200-pound boxes; some boxes are 500 pounds.

Q. What would represent the usual size of the shipments?

A. Ordinarily a shipment would be from one to three tons.

Q. What percentage of the time would they be packed with wet ice?

A. At certain seasons of the year they would all be packed with wet ice.

Q. When, for instance?

A. In the summertime we pack with wet ice.

Q. From what month to what month?

A. Usually, from the first of May until, let us say, October.

525 Q. Is that a period when the movement is heaviest or lightest?

A. That is the period when it is the lightest.

Mr. HEDGES. That is all.

Cross-examination by Mr. IVERS:

Q. You ship in rail cars, do you not?

A. Railroad cars?

Q. Yes.

A. Express cars.

Q. You don't ship carloads of fish?

A. No.

Q. Do you ship by express carloads; of fish?

A. No.

Mr. IVERS. That is all.

Mr. BROWN. Is there anything further?

Mr. BEROL. I think that is all.

(Witness excused.)

Mr. BEROL. May I please defer to Mr. Adams, who has a witness he desires to put on the stand at this time.

Mr. ADAMS. Mr. Gallagher.

RAY GALLAGHER was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Your name is Ray Gallagher?

A. That is correct.

Q. You reside in Salem, Oregon?

526 A. Yes.

Q. What is your occupation or employment?

A. I am assistant traffic manager for the Eoff Electric Company.

Q. You are the *the* assistant traffic manager?

A. Yes, sir.

Q. What commodities does your company ship?

A. We ship principally construction supplies, fixtures, wiring devices—all types of electrical supplies.

Q. Do you ship any of those commodities between San Francisco and Salem?

A. Yes.

Q. Do you ship between Seattle and Salem?

A. Yes; a good volume is shipped between Seattle and Salem, too.

Q. Do you have any pool car shipments that come into Portland from the East, that are marked for your company, that come to Salem by truck?

A. That come to Salem by truck?

Q. Yes.
A. Yes.
Q. Approximately what is the volume of such shipments, Mr. Gallagher?
A. About 20,000 pounds a month.
Q. How are you getting your shipments moved today?
527 A. Where?
Q. Are they moving for the most part between Portland and San Francisco?
A. Well, we are routing via your company now.
Q. You mean via the Oregon-Nevada-California Fast Freight?
A. Yes.
Q. Why do you specify that routing?
A. Well, we found that the existing connection now is the best available truck service.
Q. You are acquainted with the truck service that is available to you by other means of transportation, or by other trucking companies?
A. Yes.
Q. Are you acquainted with the service that the applicant here proposes to institute if this application is granted?
A. As I understand it, they are going to institute a daily truck service, direct service, from San Francisco north.
Q. Would that more specifically meet your needs than any other truck service now available to you?
A. Yes; it would.
Q. It would be more satisfactory?
A. Yes; I think it would.
Q. Are you using any other facilities other than truck service?
A. Where speed is essential, we have used the Railway Express.
528 Q. You have used that form of transportation?
A. Yes.
Q. You find they are faster than other truck service?
A. We have found it to be faster—the Railway Express.
Q. Is speed in transit of importance to you, Mr. Gallagher?
A. Yes.
Q. If this application is granted would you utilize the services of the applicant rather than the Railway Express?
A. Yes; we would.
Q. Why?
A. Because of the cost involved.
Q. Are you here supporting this application?
A. Yes.
Q. Why are you here supporting this application?

A. I would like to see the service put in, because it would enable us to get 24-hour service out of Frisco, and put us in a better position to compete with the Portland competition. The only thing we can offer them is service, and service of that kind would be very helpful.

Q. Your business is a highly competitive business?

A. Yes.

Mr. ADAMS. That is all.

By Chairman TERRIL:

Q. Of this 20,000 pounds a month, does that all move by motor truck?

A. About three-fourths of it.

529 Q. All of that is from the south?

A. I would say, from the south, about 10,000 pounds a month.

By Exam. KEPHART:

Q. Would that be in truckload lots or less than truckload lots?

A. No; it is all l. c. l. it is—it goes in about 1,000-pound lots.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ELLIS:

Q. Your principal interest here is in regard to service from San Francisco Bay points to Salem; is that correct?

A. That is correct.

Q. You are making no complaint about the quality of the service from Portland south to Salem?

A. No; I have no complaint on that.

Q. On the north-bound service you are utilizing this applicant in conjunction with the Consolidated Freightways?

A. We are now; yes.

Q. Have you had occasion in the past to make any complaints concerning that service?

A. Well, it has been my understanding, from talking to the Consolidated representatives, that they are doing the best they can; and I knew exactly how long it would take, and therefore we are governed by the time limit.

Q. I understand you have never made any complaint?

530 A. That is right.

Q. You have assumed that was the best that was available?

A. We have; but our chief complaint is the freight coming from San Francisco; it goes to Portland, quite often, and then is rerouted back; it gets to Salem on the way back. And that entails another day.

Q. Is that a regular practice?

A. It seems to be with some freight.

Q. Do you know what the operating situation is that brings that about?

A. Well, I have gathered that because nearly the entire truckload was consigned to Portland, it would go into Portland and be unload there, and they couldn't be bothered with taking it off as they went through.

Q. That is to avoid rehandling and unloading of other freight?

A. That is right.

Q. Have you been assured by the applicant that it will adopt a different operating practice?

A. That is my understanding; I understanding they are to drop it at Salem.

Q. If the Consolidated Freightways should modify their operating practices so as to unload your through freight at Salem, would that meet your principal objection?

A. If they gave us a 24-hour service, it would.

Q. You don't contend that your commodities are of such
531 nature—of a perishable nature——

A. (Interposing) Not exactly fish; no.

Q. It is largely construction materials, such as is used by contractors?

A. That is right. The main reason that we want this service is that it gives us a chance to draw on large warehouse stocks which we cannot afford to maintain ourselves.

Q. And it would mean that you would carry one day's less supply?

A. Not so much that, but unusual materials which one would hardly keep in stock.

Q. Have you used the services of the Pierce Auto Freight Lines?

A. No.

Q. Are you aware of the fact that they are giving a daily through service from San Francisco Bay points to Salem, Oregon?

A. They have never solicited our business.

Q. You didn't know that they were performing that service at the present time?

A. No; I did not.

Q. Have you ever made an investigation to find out what other service was available for the handling of your products?

A. Yes, of course, we have; but I have never tried Pierce just for the simple reason—I don't know whether they have a terminal in Salem or not.

532 Mr. ELLIS. That is all.

Mr. FARRENS. No cross.

Mr. HEDGES. No questions.

Cross-examination by Mr. IVERS:

Q. Have you ever investigated the service of the Los Angeles-Seattle Motor Express?

A. No.

Q. Have you ever dealt with McCracken Brothers in Salem or Eugene?

A. No.

Q. Have McCracken Brothers ever solocited you?

A. They never have.

Q. And you don't know whether the Los Angeles-Seattle Motor Express gives daily service, through service, direct service, to Salem?

A. We have had some little experience with Los Angeles operators.

Q. I am talking only about the Los Angeles-Seattle Motor Express.

Mr. BEROL. That is one of them.

By Mr. IVERS:

Q. Have you had any experience with them?

A. If you would like to hear it?

Mr. BEROL. Certainly.

The WITNESS. We have had experience with the Los Angeles-Seattle operator, and we find they do not connect at San Francisco, which is our primary interest.

533 Mr. IVERS. That is all.

Chairman TERRIL. That appears to be all. You may be excused.

(Witness excused.)

Mr. BEROL. If I may be indulged by the Board a moment: It was stipulated in connection with the previous case, being the application of the Consolidated Freightways, Docket No. MC 42487, just heard, that all the witnesses offered by the protestants would be deemed to have testified in this application as well, both on direct and on cross examination; and I am now making the offer to incorporate the testimony of the several witnesses offered by protestants yesterday and today in the matter of the Consolidated Freightways, Docket No. MC 42487, Sub. Nos. 15, 18, 19, and 20, I believe, into this proceeding.

Chairman TERRIL. By physical incorporation into the record or by reference?

Mr. BEROL. I have suggested by reference.

Mr. FARRENS. Well, I have no objection.

Chairman TERRIL. As I understand it, it is stipulated by all parties that it may be done by reference?

Mr. BEROL. We had such a stipulation in the other case, and I am now offering it in this case.

Mr. HEDGES. No objection.

Mr. FARRENS. No objection.

534 Chairman TERRIL. The record may so show.

Mr. BEROL. I understood that the Board was to adjourn at five o'clock this evening, and we have tried to govern the calling of witnesses accordingly.

Chairman TERRIL. Yes. We are now fifteen minutes overtime. We will adjourn until nine o'clock tomorrow morning.

(At 5:15 p. m., July 23, 1940, hearing adjourned until 9:00 o'clock a. m., July 24, 1940.)

535 PORTLAND, OREGON, *July 24, 1940.*

Before Joint Board No. 5, composed of C. T. Terril, representing the Public Utilities Commissioner of the State of Oregon; Warren K. Brown, representing the California Railroad Commission; and Charles H. Kent, representing the Department of Public Service of the State of Washington.

Present, also, C. I. Kephart, Examiner, Bureau of Motor Carriers, Interstate Commerce Commission.

Appearances: (As heretofore noted with additional appearance as follows:) Jackson W. Kendall, 1335 S. Figueroa Street, Los Angeles, California, appearing for California Van & Storage Association.

PROCEEDINGS

Chairman TERRIL. Let us proceed, gentlemen.

Mr. BEROL. If the Board please, prior to proceeding, I want to call the attention of the Board and the parties to a decision recently issued—two decisions—recently issued by the Commission. There has been some considerable reference by counsel for protestants to the services of such carriers as Colletti Fast Freight, the Los Angeles-Seattle Motor Express, the California Northwest Motor Lines, and Lubetich Brothers, or the Pacific Refrigerated Motor Line, I believe it is. Now, I have here a decision of Division 5, dated July 2, 1940. I have this decision here which
536 just arrived in the mail this morning, and I want to call the attention of the parties to this decision so that counsel may govern themselves accordingly at the time they cross-examine the applicant's witnesses. Now, in the matter of the Los Angeles-Seattle Motor Express, under that decision they were accorded operating authority, but no authority to operate between any points in either Oregon or Washington on the one hand and San Francisco Bay points on the other hand. Insofar as the Lubetich operation, or the Pacific Refrigerated Motor Line, I believe they

are, under this decision, denied the rights they seek for altogether. Insofar as the Williams Brothers are concerned—and I think they are doing business under the name of California Northwest Motor Freight, or some such name—that operation is likewise denied any rights whatsoever. Now, I mentioned yesterday another decision, which was in the Colletti Fast Freight matter, which was issued under date of July 1, 1940; and under that decision the Colletti Fast Freight are denied operating rights altogether. I am calling this to the attention of counsel, because I know that they have not intentionally examined the witnesses with respect to such service; and I therefore don't think counsel should base cross-examination of the witnesses upon operating rights which have been denied by the Commission.

Chairman TERRIL. Is that order final?

Mr. BEROL. It is an order of Division 5.

537 Mr. ELLIS. Is that in the grandfather cases?

Mr. BEROL. Yes.

Mr. ELLIS. They have BMC 8 applications pending? Isn't that correct?

Mr. IVERS. The Los Angeles-Seattle Motor Express has a BMC 8 application pending, which was heard in February, which is undecided. As to the decision that Mr. Berol just mentioned, being denied operating rights in and out of San Francisco, I have not read that decision, and I don't know just what effect it will have: that is a matter of argument, and I don't think it is proper to limit the cross-examination.

Mr. BEROL. I merely wanted to call the attention of the Board to the fact that these so-called operative rights are falling like leaves in the first autumn wind when the Commission scrutinizes their applications.

Mr. ELLIS. I think the record should show that the decisions of the Commission referred to are decisions in the grandfather applications, and that several of the carriers have as yet undetermined BMC 8 applications, which have been heard and are awaiting determination. I do appreciate the information counsel has given me on the grandfather cases, however.

Chairman TERRIL. Call your first witness.

Mr. BEROL. Mr. Farr.

C. C. FARR was sworn and testified as follows:

538 Direct examination by Mr. BEROL:

Q. Will you give your full name to the reporter?

A. C. C. Farr.

Q. You reside in Coquille?

A. Yes.

Q. What is your business or occupation?
A. Merchant.
Q. Particularly what type of merchandise do you deal in?
A. Hardware and feed and seeds.
Q. How long have you been so occupied?
A. 21 years.
Q. All of that time in Coquille?
A. Yes.
Q. Now, are you familiar in a general way with the application of the Oregon-Nevada-California Fast Freight pending here?
A. Yes; I understand it.
Q. You understand the character of the service that they propose between San Francisco Bay points on the one hand and Coquille on the other hand?
A. Yes.
Q. Now, what type of commodities do you in the conduct of your business have occasion to transport from San Francisco Bay points?
A. Mostly seeds and hardware.
539 Q. What means of transportation are you using at the present time?
A. We use the Consolidated Freight Lines.
Q. In conjunction with the Oregon-Nevada-California Fast Freight?
A. Yes.
Q. What is the time in transit at the present time from San Francisco Bay points to Coquille?
A. Well, as I remember, the freight bills we have been getting show delivery to a carrier in San Francisco one afternoon, and it reaches the day after that, in the morning—it would be two days after that.
Q. Two days later?
A. Two days later.
Q. You understand, under the applicant's proposal, deliveries will be made the following afternoon?
A. Yes; I understand.
Q. Is that a matter of importance to you in the conduct of your business?
A. Yes.
Q. Will you explain why?
A. Anything that will expedite delivery to us of that merchandise to our door will be of great help to us; especially when you can get a better market and buy better.
Q. What is the source of supply for your commodities?
A. For our trade, San Francisco and Portland.

540 Q. And which is the better market, so far as you are concerned?

A. San Francisco, generally.

Q. For what types of commodities?

A. Practically all the commodities that we buy can be purchased better in San Francisco.

Q. What do you mean by "better"?

A. I mean there is a better choice, a better line and a better price.

Q. Is that generally true?

A. Yes; that is generally true.

Q. Now, approximately how often do you have occasion to receive shipments of seeds and hardware?

A. Well, at the present time it is infrequently.

Q. I mean, during the course of the year?

A. Probably once a week; something like that.

Q. Once a week?

A. About that.

Q. What would be the average weight of the shipments?

A. We always try to ship 100 pounds or more.

Q. Do you also have shipments of feed?

A. Yes; we receive shipments of feed out of San Francisco regularly.

Q. So far as your shipments of feed are concerned, those shipments are in heavier lots?

A. Yes; in carloads.

541 Q. Will the granting of a certificate to the applicant, permitting the applicant to serve you as proposed, be of assistance to you in the conduct of your business?

A. Anything which will expedite the service; 24 hours saving in time would be a help.

Q. It would not be 24 hours, but it would be in the neighborhood of 15 hours or so?

A. That would be quite a help.

Mr. BEROL. I think that is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. Your primary interest in this proceeding is one of obtaining faster service from San Francisco, if it is practical to obtain it?

A. Yes.

Q. I am assuming it is not a matter of importance how that saying in time is accomplished?

A. No.

Q. That can be worked out—if that can be worked out by greater cooperation between the existing carriers, so as to eliminate loss of time at interchange points, that would serve your purpose?

A. Well, the purpose is to get the deliveries as quickly as possible.

Q. What commodities do you feel require rapid delivery, so far as your business is concerned?

542 A. Most any merchandise materials that we handle require that; we don't like to carry any bigger stock than we have to; if we can get overnight service, that means we have to carry less inventory.

Q. As to your seeds, dairy feed, and stock of that kind, you would not want or expect overnight service? You wouldn't expect overnight service on those things?

A. No. We get that only in carload lots.

Chairman TERRIL. By that you mean railroad car?

The WITNESS. No; boat service.

By Mr. ELLIS:

Q. A week or ten days wouldn't make any difference as to your stock of that type of merchandise?

A. Not generally.

Q. Just what particular items do you have in mind where the saving of 15 hours time would be important?

A. Garden and field seeds, and hardware items.

Q. Garden and field seeds?

A. That is correct.

Q. Well, garden and field seeds, those are commodities that your customers usually anticipate their demands on sometimes several weeks in advance of the planting; isn't that correct?

A. No; that is not. Field seeds or garden seeds are seasonal; in seasonal merchandise, we don't have any anticipation. You can anticipate on the basis of what you did last year, indicating

543 what you will probably do this year, but you are always running out of certain items; and those are expensive items, perishable commodities, and we don't want to carry them over.

Q. You don't mean to tell the Board that in laying in garden and field seeds for your store at Coquille, that you decide what you want today and you must have service on it tomorrow?

A. Yes. Take, for instance, white clover seed; that costs wholesale 80 cents a pound. We don't buy a lot of that for the year; that is bought just as we need it. If a man comes in and wants an unusual amount, or a large amount of it, we immediately wire for that. He comes in today, and he wants to plant that tomorrow; it means a lot of difference if we could give that service to him immediately. It may mean the difference between a sale or not a sale.

Q. Your present delivery would be in the mid-afternoon, would it not?

A. Yes; I believe so.

Q. What advantage is mid-afternoon delivery as compared with early-morning delivery on the following day?

A. It would just mean a day. It would mean this day's business instead of the next day's business.

Q. You think you should get the seeds into the hands of your farm trade on the afternoon or evening of the first day rather than on the morning of the following day?

A. Yes.

544 Q. And you think that makes quite a difference?

A. Oh. Yes.

By Exam. KEPHART:

Q. Are your shipments in less than truckload quantities, mostly?

A. Yes.

Q. Do you have any truckload shipments?

A. Not at the present time.

By Mr. ELLIS:

Q. What is you normal closing time?

A. Six o'clock.

Q. You would not expect to dispose of any great proportion of a shipment that arrived at 2:30 or three o'clock this afternoon before the closing time, would you?

A. No. Of course, if you tell a customer that you have freight coming on the next delivery, or, say, at three o'clock, he can be there and get it, and have it for use.

Q. Actually, for years you have conducted your business on the basis of boat service, very largely?

A. We have had the Consolidated service out of there for ten years.

Q. But even with the Consolidated service available, haven't you shipped a great deal of your shipments by boat, and haven't you been perfectly content with two or three weeks service, to get your stocks in from San Francisco?

A. No. The great bulk of our commodities come in by Southern Pacific, rail.

545 Q. How does that compare with the time of the truck service which you get today?

A. Well, railroad freight, it takes between five and six days.

Q. Are you in any other business than hardware, seed and feed business?

A. No.

Q. You are not connected with any transfer company?

A. No.

Mr. ELLIS. That is all.

Cross-examination by Mr. FARRENS:

Q. Is there a firm in the trucking or dray business in Coquille by the name of Farr & Elwood?

A. No, sir.

Q. Is there such a firm in business down in that country?

A. Yes; that is the name of our store.

By Chairman TERRIL:

Q. Do you operate any private truck of your own?

A. We have one delivery truck, that makes deliveries.

Q. You don't engage in the transportation business?

A. No.

Chairman TERRIL. For your information, Mr. Farrens, the common-carrier service has been discontinued for about a year and a half; I am referring to the firm of Farr & Elwood.

The WITNESS. Longer than that.

546 By Mr. FARRENS:

Q. Do you engage in drayage in the city?

A. No, sir.

Q. You have gone out of the for-hire transportation?

A. Yes.

Q. Did you used to have a set-up with the steamship coming in there?

A. No.

Mr. FARRENS. That is all.

Chairman TERRIL. Is there anything further? That appears to be all. You may step aside. Thank you.

(Witness excused.)

Mr. BEROL. Mr. Cady, will you come forward, please.

C. C. CADY was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name for the reporter?

A. C. C. Cady.

Q. Where do you reside, Mr. Cady?

A. Vancouver, Washington.

Q. What is your occupation or business?

A. Auto parts.

Q. How long have you been so occupied?

A. 15 years.

Q. What is the name of your firm?

A. Bakke-Daniels, Inc.

547 Q. Are you a part owner?

A. Yes.

Q. Now, in the conduct of your business, do you have occasion

to make shipments either to or from the San Francisco Bay area?

A. Yes; we do.

Q. Are those shipments from or to San Francisco?

A. From.

Q. From the San Francisco Bay area to Vancouver?

A. Yes.

Q. Approximately how frequently do such shipments move?

A. That will vary a great deal; at the present time, four or five times a month.

By Exam. KEPHART:

Q. Less than truckloads or truckloads?

A. Less than truckloads.

By Mr. BEROL:

Q. What will be the weight of the shipments, on an average, Mr. Cady?

A. They will vary from 50 pounds to four or five hundred pounds.

Q. Why is it, Mr. Cady, that Vancouver being as close to such jobbing centers as Portland and Seattle, you have occasion to buy from San Francisco?

A. Because there is merchandise there that we cannot buy in Seattle and Portland.

Q. Do you find this type of merchandise that you have occasion to buy frequently is purchased to better advantage
548 in San Francisco?

A. Yes.

Q. What kind of transportation have you been using?

A. Well, we have been using rail freight, auto freight, and, in some cases, the bus; however, that is very seldom.

Q. With respect to the transportation that you have at the present time, what is the time in transit, as a rule, between San Francisco and Vancouver?

A. Approximately three days.

Q. Is time in transit a matter of importance to you?

A. In some cases it is very important.

Q. Will you state why it is important, in the cases when it is important?

A. Do you wish me to state that?

Q. Yes.

A. Well, if we sell any piece of equipment, and the customer needs a part, and we are short, we have to get that piece or the equipment isn't worth while, cannot be used; therefore, we have to have it in a hurry.

Q. Do you understand in a general way the nature of the application that is pending here?

A. Yes.

Q. Do you understand that the application is proposing service which will give you delivery the second morning out of San Francisco?

549 A. Yes.

Q. Is that a kind of service that would be helpful to you in your business?

A. Very much.

Q. Is that kind of service available to you in this area now?

A. Not to my knowledge.

Q. Would you use that service, if you had such a service available?

A. Yes, we would. In fact, we would specify all shipments to come that way.

Mr. BEROL. That is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. What have you been told as to any improvement in service to Vancouver as a result of the proposal of this applicant?

A. We could have an order in Monday morning, and have it in time before closing hours on Tuesday.

Q. You are sure of that; that an order in San Francisco on Monday morning would be delivered to you on Tuesday afternoon?

A. Provided it was a special delivery letter or telegram.

Q. And your appearance here is based on that understanding?

A. Yes.

Q. Were you told that the service of this applicant to Vancouver was to be an on-call service only, and that they would not run regular schedules?

550 A. That it would be furnished from Portland in case of no deliveries at Vancouver.

Q. What service are you now using from San Francisco?

A. I believe the Consolidated Freightways; and, I think, in some cases, through Colletti.

Q. Isn't it true that you are getting dependable second morning delivery—second day delivery—at Vancouver at the present time?

A. You mean if it was in there on Monday, it would be into Vancouver on Tuesday or Wednesday?

Q. Wednesday morning.

A. I don't believe I can say that; no sir.

Q. What would you say as to the time that you receive those shipments?

A. It might be over there Wednesday afternoon, or as late as Thursday morning.

Q. What lines have you been using in that service?

A. Just as I say the Consolidated and Colletti.

Q. Those are the only two that you have used?

A. The only two that we have used recently; but, in 15 years, we have used practically all means of transportation.

Q. Does the Consolidated Freightways make truck deliveries to your door; direct to your door?

A. No; I believe not. I believe most of it has been given by Pioneer, or Weeks, from transshipments.

551 Q. Do you know where it is transshipped?

A. I suppose it is Portland.

Q. I assume, for your normal demands and normal uses, you carry a sufficient stock on hand at all times, and that your principal desire for faster service is only for use in connection with emergency shipments or stock shortages that come up unexpectedly.

A. I will have to answer that a little differently than "yes" or "no."

Q. Answer it in your own way.

A. For this reason: We try to keep a stock of merchandise on hand, but we do run short, so, we naturally have to replenish the stock in our business, as well as other emergency shipments.

Q. That is, you need the service, you say, for emergency shipments, and partly to avoid stocking lines of merchandise that you are called upon to sell?

A. That is it.

Q. Now, what is your normal closing time?

A. In the evening?

Q. Yes.

A. Five o'clock.

Q. Would it be of any particular advantage to you to have service that arrived after five o'clock?

A. Well, there was a set of sleeves came in from San
552 Francisco last week, which was to be put in a truck, to be running at a certain time; and it is very convenient to have such service.

Q. That is not a normal situation with you?

A. I might say that our entire merchandising set-up is based mostly on service; there are several lines of merchandise that we carry, and we run out of stock, and there are times when emergencies occur at the moment, and if we can get faster service, it will be certainly a great help.

Q. Do you keep a staff on duty regularly after your closing hours? That is, at your store?

A. No.

By Exam. KEPHART:

Q. For emergency work?

A. No.

By Mr. ELLIS:

Q. You call the men down and retain them after hours for emergency cases?

A. Yes.

Q. Were you told that the schedule for the north would not come in from the south until about six o'clock in the evening?

A. We were told that one unit of that service would arrive shortly after noon, around two o'clock.

Q. It would have to arrive at that hour to aid you; is that it?

A. In emergencies.

553 Q. You were not told that you could get an order in to San Francisco on Monday morning and receive it at your place of business, regularly, at two o'clock the next day, were you?

A. That it would be possible if the emergency would occur, or was great enough.

Mr. ELLIS. That is all.

Cross-examination by Mr. FARRENS:

Q. If you call the employees of your shop to go back to work after five o'clock, do you pay them time and a half?

A. Yes.

Mr. FARRENS. That is all.

Chairman TERRIL. Is there any further cross with this witness? All right, Mr. Berol.

Redirect examination by Mr. BEROL:

Q. I just want to ask Mr. Cady one more question: Mr. Cady, respecting the time of deliveries, I want to advise you that it is contemplated there will be two schedules out of San Francisco, one in the morning, which means that it would arrive in Portland early the following morning and be available to you in Vancouver sometime during that morning; and that there is another schedule departing from San Francisco in the afternoon, arriving in Portland the following evening, and that merchandise arriving on that schedule, if it was an emergency, would be available to you

554 that evening, or, if not, the next morning. With that in mind, is your testimony regarding the need and desirability of the service the same?

A. Yes.

Mr. BEROL. That seems to be all. Thank you very much.

(Witness excused.)

Mr. ADAMS. Mr. Toban.

RICHARD TOBAN was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you give your name, please?

A. Richard Toban.

Q. You are employed by the Gates Tire & Rubber Company?

A. Yes.

Q. Portland?

A. Yes.

Q. What position do you hold with that company?

A. Assistant warehouse manager.

Q. Do you have occasion to ship between Portland and San Francisco?

A. Yes.

Q. Do you ship in both directions?

A. Yes; we do.

Q. What are the commodities that you ship?

A. Tires, tubes, industrial hose, belts, camelback—that
555 is, tire tread material.

Q. Do you have occasion to ship from San Francisco to points in Oregon other than Portland?

A. Yes.

Q. Just state generally what those points are?

A. Well, wherever our dealers are. Whenever they need something that we have not in stock, we wire San Francisco and we have it sent up from Frisco.

Q. Where would those dealers be located?

A. Those dealers would be located at Medford; a dealer in Klamath Falls; a dealer in Grants Pass, Coquille, Marshfield, Roseburg, Reedsport, North Bend, Bandon.

Q. Is speed a factor in connection with your shipments?

A. Yes.

Q. In the past have you been able to get the type of service that the proper conduct of your business requires?

A. To a certain extent; we have had delays.

Q. Are you familiar with the service that is proposed by the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. Through to Portland, to the points in the Willamette Valley you have named, and also to the points in the Coos Bay area?

A. Yes.

Q. Is there such a service in existence at the present time that is comparable to that?

556 A. Well, it is close; well, to a certain extent; yes.

Q. What service do you use now?

A. We have been using—it would be the Oregon-Nevada-Cali-

fornia Fast Freight to Medford, and then it is transferred onto the Consolidated, Pierce and PTX.

Q. By "PTX" you mean the Pacific Truck Express?

A. Yes.

Q. Prior to appearing here, did you check the financial standing of the applicant?

A. Yes.

Q. To satisfy yourself as to his reliability?

A. Yes.

Q. Were you satisfied as a result of that check?

A. Yes; I was.

Q. In the main, why are you supporting this application, Mr. Toban?

A. Well, I believe we can get good service from the Oregon-Nevada-California Fast Freight. We have had good service in the past from Frisco to Medford by that company, and I think it would be a good thing to let them run on in.

Q. Is there any element of superior service that enters into your decision to appear here?

A. I think it would be better, if it could be shipped straight through on one truck rather than transferring it.

Q. Is the transfer en route of importance to you?

557 A. Well, it may mean delays in shipments.

Q. Has it meant delays in the past?

A. There has been delays.

Q. Now, comparing the proffered service with the service that is now available to you, why are you now supporting this application?

A. I think we could get faster service.

Q. In the past has the slowness of service been of any inconvenience to your company?

A. Well, there has been this much about that; when we do have shipments coming from California, it has got to come in a hurry; there is no question it may mean a loss of dollars if we can't get the right sized tire or a camelback; and if we can't supply it, somebody else will.

Q. Have you had difficulty on that score in the past?

A. As I said, we have had some delay.

Q. You are in a highly competitive business, are you?

A. We are.

By Chairman TERRIL:

Q. How frequently do you have shipments from the south?

A. Oh, it would be hard to say; it varies a great deal. I couldn't tell you exactly.

Q. Once a week or twice a week?

A. Well, it may average four or five times a month.

Q. In what weights do your shipments move?

558 A. That would vary from 50 pounds up to 500 pounds.

Q. Is there any south-bound movement into California?

A. Well, on the same business, if the Frisco warehouse would be short, we would have to ship south.

Q. All of these shipments that you are speaking of move by truck?

A. Most of them do; yes.

By Exam. KEPHART:

Q. In truckload lots?

A. No.

Q. Have you any idea as to the volume of south-bound movements into California from your company?

A. It would vary considerably; it would run from 100 pounds to 500 pounds.

Q. During a month?

A. Yes.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ELLIS:

Q. Do you have charge of the routing of all freight from the Gates Tire & Rubber Company, Mr. Gallagher?

A. Mr. Toban.

Q. Mr. Toban. Excuse me.

A. From this warehouse.

Q. Who routes the freight out of the San Francisco warehouse?

A. I don't know the shipping clerk's name.

Q. Actually, you don't have anything to do with the

559 shipments from Portland, except that you receive them when they arrive; isn't that true?

A. The shipments to Portland; that is true.

Q. Your company does engage in business and have a warehouse and sales agency at San Francisco; is that correct?

A. Yes.

Q. Do you know whether the Oregon-Nevada-California Fast Freight is the user of your brand of tires?

A. No; I don't.

Q. You say you don't get fast service to your trade?

A. I didn't say that. I said we should have faster service.

Q. You stated that if you did not get faster service to your trade somebody else would, and you would lose the customer.

A. That is right.

Q. I am wondering whether or not you have any competitors that are able to get better service to their stores than you are able to get at the present time, or are you competitive with them?

A. We are building up in the Pacific Northwest; our company builds on service, and we want to get the fastest service possible so as to get the customers, and to hold the customers with the fastest possible service.

Q. Do you think you are getting as fast a service as your competitors at the present time?

A. I think so.

560 Q. You say there have been delays, and you implied that they have been rather rare. Do you know what has occasioned those delays?

A. No; I don't. I have an idea, but I don't know for sure.

Q. Have you made any investigation, or has your San Francisco office made any investigation to find out if, perhaps, these delays did not occur on the lines of this applicant at its San Francisco terminal, en route to Medford, or in its Medford terminal?

A. Well, I couldn't say; I couldn't answer that question; I don't know. The way I understand it from our warehouse manager, the way we figure it, it was the layover in Medford for transshipment.

Q. You don't know whether it was the fault of this applicant or the fault of some other carrier?

A. No.

Q. You don't know anything about how long the freight is held over at Medford, or how long it takes to transfer the freight?

A. No; I don't.

Q. Do you actually know whether it is transferred at Medford?

A. It must be, from the bills of lading.

Q. Don't you know there is through equipment being operated from Medford——

Mr. ADAMS. That is only on perishable products.

By Mr. ELLIS:

561 Q. Did you know there was through equipment of any kind operated by this applicant from San Francisco to Portland at the present time?

A. There is, but they would not be going to the way points, would they?

Q. But they go through the way points?

A. I am not sure whether they stop there; they don't go into the Coos Bay area.

Q. Did you know that through equipment was being operated at the present time?

A. Oh, yes.

Q. Did you know that there were carriers operating between Portland and San Francisco at the present time giving daily service, with a through operation?

A. Without any transfer?

Q. Without any transfer at Medford?

A. There is one truck line, isn't there?

Q. Do you know whether there are any?

A. Yes; I know there are some.

Q. Have you used the services of any of them?

A. No; not on that particular stuff. I think our merchandise is given to the Consolidated or Pierce at Medford.

Q. If a through service is so important to you, can you tell the Board why your company has not availed itself of the present through service? If you don't know, say so.

562 A. I was just trying to think. The way the—the warehouse has shipped a lot of that stuff after hours, and I imagine he has gotten the truck lines that he could get, that he could pick up at that time, when there was telegrams coming in.

Q. Who do you mean by "he"?

A. Well, the shipping clerk. There are a lot of telegrams, or evening calls that will come in after hours. I know we have called after hours and tried to get someone to take it.

Q. Then, are we to understand that your position here has primarily to do with the after hour service, and do you think this carrier will give you after hour service?

A. It is not all after hour service. But from what I understand, I think they will give us good service.

Q. Have you ever used the services of the Pierce Auto Freight Lines between here and Medford?

A. Yes.

Q. Have you found that service satisfactory?

A. That service has been satisfactory.

Q. If Pierce could provide you a through daily service between Portland and San Francisco of that character, wouldn't that meet your needs?

A. I think we need more than one that we can depend on; more than one that we can depend on and know that they will take it.

563 Q. Well, assuming that there is competition, and that there are other carriers available as well as Pierce, don't you think a through service by the Pierce Freight Lines to San Francisco would be as satisfactory to you as the same kind of service rendered by this applicant?

A. It is just as I say; I think that we need more than one, or more than two, or we would not have enough; we need enough so that we don't have to depend on one truckline. Then we would have two or three to call on to get a shipment through.

Q. As between this applicant and the Pierce Auto Freight Lines,

or any other reliable carrier, you would not have any personal preference so long as the service was approximately the same?

A. No.

Q. How many competitors do you think there should be in the service between Portland and San Francisco?

A. How many?

Q. Do you think two would be enough, or would you need three?

A. Well, if you have to call and try to get a truck in the evening to make a pickup, you would know the answer to that.

Q. I never have.

A. Well, I have; sometimes you can't get a truck to pick up a shipment; but if you have more, you would have a better chance to get one.

564 Q. I take it that you are primarily concerned with being able to get a truck to make pickups after hours, and that is really when you encounter your difficulty, primarily?

A. Yes.

Mr. ELLIS. That is all.

Cross-examination by Mr. FARRENS:

Q. Did I understand you to say that you had used the services of the Pacific Truck Express?

A. Yes.

Q. You know that is a through, daily service between Portland and San Francisco, don't you?

A. Well, no; I didn't know that.

Mr. FARRENS. That is all.

Mr. IVERS. No questions.

Redirect examination by Mr. ADAMS:

Q. You are appearing here on behalf of the Gates Tire & Rubber Company?

A. Yes.

Q. You are authorized to appear?

A. Yes.

Q. You left the inference that you did not control the shipments from the San Francisco Bay points.

Mr. ELLIS. He said definitely that he did not; there was no inference at all.

By Mr. ADAMS (continuing):

565 Q. How about ~~the~~ wires that you send out on emergency shipments?

A. I will have to take that statement back. I have never sent any wires myself, but the warehouse manager does that; he is supposed to specify the truck to send it by.

Q. Do you have competitors located here in Portland who draw their supplies from any points other than Portland?

A. How is that?

Q. Do you have any competitors that, like you, draw on San Francisco stocks, or are there others who have stocks here in Portland, like you?

A. Others that have stocks in Portland?

Q. Have you been able to match them in service?

A. As far as I know; yes. However, that is a hard question to answer. Because, if we don't get it here, the dealer will have to call someone else, like yesterday a man was in from one of the dealers and he wanted 2 600 x 21 tires; we didn't have one in stock, and we sent to Frisco; and if we couldn't get them from Frisco as soon as possible he would have to go somewhere else to get the tires; it is impossible for us to keep the obsolete sizes on hand.

Q. Is that the viewpoint from which you are testifying, to meet situations like that?

A. Yes.

Q. Did the Pierce Line ever tell you they had a through service to San Francisco?

566 A. No.

Q. Did they ever solicit you on that business?

A. No.

Mr. ADAMS. That is all.

(Witness excused.)

Mr. ELLIS. I would like to ask the witness another question, if the Board please.

Chairman TERRIL. Will you resume the stand?

RICHARD TOBAN resumed the stand and further testified as follows:

Re-cross-examination by Mr. ELLIS:

Q. Do you know whether your superior has been solicited by the Pierce Lines for your business?

A. Up to last month, I was the shipping clerk of the company; I just got my promotion last month, and most of them would come to me; and yesterday I was talking with the shipping clerk that took my place. He didn't mention having been solicited.

Q. It is entirely possible that some of your superior officers have been solicited, and you wouldn't know about it?

A. Well, he usually tells me; when I was shipping clerk, I was supposed to know.

Q. You are not the shipping clerk now?

A. No.

567 DON C. TOYE was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you give your name to the reporter?
A. Don C. Toye.
Q. Where do you reside?
A. Portland, Oregon.
Q. What is your occupation?
A. Solicitor.
Q. For what company?
A. The Spokane-Pacific Line.
Q. The Spokane-Pacific Line?
A. Yes.
Q. What is the business of the Spokane-Pacific Line?
A. To handle commodities generally between Portland and Spokane.
Q. And you operate a daily schedule between those points?
A. Yes.

Q. Excepting Sundays and holidays?

568 A. Including Sundays and holidays.

Q. Including Sundays and holidays?

A. Yes.
Q. Are you testifying here on behalf of any officer of the company?
A. Yes.
Q. What has been briefly, your experience in transportation?
A. Do you want me to tell you?
Q. I would like to have you advise the Board.
A. I have been connected with transportation for about 3½ years.
Q. Are you familiar in a general way with the nature of the application pending here?
A. I am.
Q. Are you familiar with the organization of the Oregon-Nevada-California Fast Freight?
A. I am.
Q. Over how long a period of time have you been familiar with that organization?
A. For the entire 3½ years.
Q. Based on your observation over a period of 3½ years, what are your views as to whether or not the company is reliable and is a dependable transportation agency?
A. I would say that they were.

Q. Now, will you explain briefly as to the interest of your

569 company in this application?

A. Since our revenue is derived primarily from our haul between Portland and Spokane, we are naturally anxious to get

the most adequate service to our customers in Spokane; and we are also as anxious to get as complete a service from San Francisco as possible in order to serve our customers completely, so that they would have service from San Francisco to Spokane.

Q. Now, the Consolidated Freightways operate between Portland and Spokane, do they not?

A. Yes.

Q. And are directly competitive with your line?

A. They are.

Q. Do you have adequate facilities at the present time, that are sufficient for your needs?

A. In connection with the service that is to be proposed here?

Q. Do you at the present time have facilities that are completely adequate or sufficient for your needs?

A. They have taken care of our needs up to the present.

Q. And how do you anticipate that the service will be improved, or that your requirements will be better satisfied by the Oregon-Nevada-California Fast Freight service?

A. Because I know by experience of the completeness and the adequateness of the service that the Oregon-Nevada-California Fast Freight is offering to Medford, or has been offering to Medford, and from other lines that we connect with, and we
570 feel that if they are allowed to come into Portland, it would better our service from the standard of accommodations to the San Francisco shippers, as well as speed up the tempo of shipments at Spokane. It is my understanding that they propose a second morning service from San Francisco shippers, as well as speed up the tempo of shipments at Spokane. It is my understanding that they propose a second morning service from San Francisco into Spokane.

Q. At the present time what time does your equipment go from Spokane to Portland—from Portland to Spokane, rather?

A. The first one at six o'clock or a little after; and the second one at seven.

Q. Is that a set schedule, or could you hold that, if necessary, in order to meet incoming trucks?

A. The second piece of equipment is flexible.

Q. With respect to movements from Spokane to Portland, what is the schedule of leaving?

A. It runs the same, except that we try to get the first one out of Spokane at five o'clock, and, within the last week, we have changed it so that one would leave earlier.

Q. And what time do they arrive at Portland?

A. One arrives at three o'clock, and the second at 7:30.

Q. In the morning?

A. Yes.

Q. So that they could connect with the eight o'clock morning schedule leaving Portland for San Francisco?

A. Yes.

Q. Has your organization discussed with the Oregon-
571 Nevada-California Fast Freight the proposal of making joint rates?

A. I couldn't answer that.

Q. Mr. Stout did not advise you on that?

A. I couldn't answer it; I could merely answer it to this effect, and that is we desire it; I know that to be a company policy.

Q. Now, can you tell me roughly as to the volume of traffic that you originate in the Spokane area destined for California points at the present time?

A. Not to exceed 10,000 pounds per week.

Q. And what would you say the average would run? Would it run close to 10,000 pounds per week?

A. Close to 10,000 pounds per week.

Q. And do you receive any substantial amount of freight originating in California points destined to Spokane at the present time?

A. Yes; we are.

Mr. BEROL. I think that is all. You may take the witness.

Chairman TERRIL. Cross examine.

Cross-examination by Mr. ELLIS:

Q. Can you tell me how much freight you receive at Portland destined for Spokane at the present time from California points?

A. Better than 5,000 pounds a day. I should clarify that; with respect to San Francisco, it would run a little under 5,000; between three and five.

Q. With what carrier do you interchange that freight
572 at the present time?

A. We have three connections.

Q. Who do you have connections with?

A. One with the Pacfic Truck Express; one with Pierce; and one with Mitchell Brothers.

Q. Now, you are in competition with the Cater Motor Freight between here and Spokane?

A. We are.

Q. Are there any other carriers serving between here and Spokane?

A. Yes.

Q. Would you mind naming them?

A. The United Frelight Lines—United Truck Lines; the Consolidated Freightways.

Q. Do you need any more competition on your line?

A. We don't want any more, and I don't think it is needed.

Q. Have you made a sufficient investigation to enable you to say whether there is any need for further competition between Portland and San Francisco?

A. Yes; we have. We have questioned our customers as to their attitude, whether the service was complete; I don't think there was one of them that had a complaint. However, they would like to have faster service.

Q. I assume that you would expect, in connection with the interchange of freight with this applicant, in the event his rights were granted, that freight would have to be transferred at
573 Portland from their trucks to the trucks of your line, or in the reverse direction, from your trucks, at your terminal, into their equipment?

A. At the present time, that is the way it is handled. I have heard talk of interchange of trailers, but I don't think anything definite has been worked out.

Q. Up to the present time, there has not been a sufficient volume of tonnage moving to justify any interchange arrangements at Portland, has there?

A. At times, there is; but our connecting carriers have all been semitrailer operations, and ours is a truck and trailer operation.

Q. Of this 10,000 pounds per week that would move from Spokane through Portland to connecting carriers south, I assume that moves in small lots each day, very largely?

A. No; it does not. When I said, 10,000 pounds, I referred to one movement of approximately 5,000 pounds each week, and the rest l. c. l.

Q. Would that quantity of freight justify the running of through trailers to Spokane via a connecting line at Portland, or, in the reverse direction, to San Francisco?

A. Not on an interchange. We would be perfectly willing to shift the freight at Portland, or transfer the freight there.

Q. Do you think there is anything inherently impractical about such a transfer?

574 A. No; I can't say that there is.

Q. Have you in your experience found any great difficulty in effecting those transfers at the connecting points with other carriers?

A. No; we have not.

Mr. ELLIS. That is all I have.

Chairman TERRIL. Is there any further cross with this witness.

Cross-examination by Mr. FARRENS:

Q. In your previous experience, have you confined your efforts to solicitation, or have you had operating experience?

A. I have had operating experience to the extent that I was given an agency, you might say, although I had no ownership in the operation.

Q. By that I mean, have you had charge of the actual operation of trucks?

A. Yes; I have.

Q. In line haul carriage?

A. Yes.

Q. To what extent has that experience been?

A. Two years' time.

Q. Where was it.

A. San Francisco.

Q. With what line?

A. Pacific Truck Express.

575 Q. And in connection with that experience, did you have the handling of interchange business with the connecting carriers?

A. I had the job of routing shipments on through Portland to destination.

Q. On through Portland?

A. Yes.

Q. You were located here?

A. No; I was located in San Francisco.

Q. You had nothin' to do with the handling of the interchange at Portland?

A. Not the actual interchange or handling; no.

Q. Did you have anything to do with the handling of the interchange at Frisco for points south?

A. I did.

Q. You understand, I assume, that at the same time there is being heard—not in this case, but there is presently being heard—the application of the Consolidated Freightways for authority to operate from Medford on south to San Francisco?

A. I understand that.

Q. And if that application is granted, that would provide a through route between San Francisco on the one hand and Spokane on the other?

A. When you speak of a through route, do you mean the equipment going completely through?

Q. I mean one line, without any interchange between the 576 different lines.

A. Yes; I so understand.

Q. Now, do you think that the application—strike that. Do you think if the application of this applicant is granted, you could make an interchange with the applicant at Portland, and

furnish to the shipping public as good service as the Consolidated would furnish?

A. I am positive that we could.

Q. Now, the Consolidated Freightways in its case has contended that there are 14 reasons why two interchanging carriers cannot give the shipping public as good service as one line operating through?

Mr. BEROL. I wonder if counsel will hold that question while I call Mr. Schafer?

A. I will give him 14 reasons why we can, if he would like to hear them.

By Mr. FARRENS:

Q. I take it that you don't take much stock in that type of testimony?

A. No; I don't.

Q. How would you handle the billing at Portland between your company and the applicant?

A. The billing?

Q. Would you rebill?

A. At the present time we do; however, there has been a tendency to eliminate that as much as possible, and, in the
577 future, I don't doubt but that we will have some arrangement to carry the billing straight through.

Q. Do you regard that as practical?

A. It may be.

Q. It is done by the rail carriers; is it not?

A. I couldn't answer that.

Q. You wouldn't regard that as being anything that would prevent proper service by your company and the applicant to the public, if the application is granted.

A. Not in the least.

Q. You recognize that errors are made now and then in the statement of rates to customers?

A. Yes.

Q. Now, would you think that the correction of any such errors would be substantially complicated so as to prevent your company from rendering the proper public service?

A. No, I don't; we have found it possible to correct mistakes in billing that have been made at San Francisco; that has been an advantage to the service.

Q. And there are always, or, rather, occasionally, astray or lost shipments which would require intercommunication between connecting carriers?

A. Yes.

D. Do you regard that as a substantial objection which would

prevent you from giving proper service because of the inter-
578 change with the applicant?

A. No.

Q. Does astray or lost shipment require communication between the different offices of the company, whether it is one line or more?

A. Yes.

Q. Would you expect to run into difficulties in the matter of c. o. d. remittances and collections?

A. No.

Q. I mean, in the operation between you and the applicant as compared with a through line operation?

A. No; I don't see any difficulty there; nothing extraordinary.

Mr. BEROL. Let me ask you: is it your purpose, Mr. Farrens, to incorporate the testimony of this witness in the application of the Consolidated Freightways; if it is, I will not object. But, if it is for the purpose of cross-examination of this witness in this case, I will object to it as incompetent, irrelevant, and immaterial; and furthermore, it is improper cross-examination, particularly insofar as this case is concerned, and it is irrelevant.

Mr. FARRENS. I cannot quite agree with counsel. I do desire that the testimony of this witness be consolidated or incorporated in the Consolidated case.

Mr. BEROL. That it be consolidated?

Mr. FARRENS. Yes. However, we have heard nothing
579 more than a skeleton outline of what the present position of the applicant is with respect to the present interchange.

Mr. BEROL. We have not advanced any such 14 points.

Mr. FARRENS. If counsel is prepared to assure me that he will not at any time during the subsequent hearings espouse or adopt the 14 points about which we have heard so much, or that he will not advance those objections which were set forth by Mr. James in his testimony, I am willing to concede his objection as to the receipt of the evidence in this case is sound.

Mr. BEROL. I have not made a sufficient analysis of the 14 points program to advise you; and I cannot tell you whether our subsequent testimony will touch upon them or not.

Mr. FARRENS. Therefore, when we come to cross-examine the public witnesses, due to the uncertainty that exists, I think I am entitled to cross-examine the witness on those points.

Mr. BROWN. Go ahead, Mr. Garrens.

By Mr. FARRENS:

Q. I think I was discussing the question of remittance on C. O. D. shipments. Had you answered my question on that?

A. No, we have never had experience with such difficulties in the past.

Q. You would not expect to in the event of an interchange at Portland?

A. No; I would not.

580 Q. Of course, settlement of claims becomes necessary in the trucking business?

A. Yes; we have it.

Q. Would you regard the handling of claims settlements by your company, in a through business conducted in conjunction with the applicant, to be a matter of greater difficulty than a single line might have in performing the same service?

A. No.

Q. Will you give your reason?

A. For the reason that we accept our proportion of the claim in accordance with our division with the carrier, and there has never been any doubt about it.

Q. That is on a predetermined basis?

A. That is right; that is predetermined.

Q. If the claim is presented in San Francisco, your connecting carrier would take care of it?

A. That is correct.

Q. And if it is presented in Spokane, you would take care of it?

A. That is correct.

Q. And if it happened in Portland, the person there would take care of it?

A. That is correct.

Q. And in the event there is some question concerning the bona fide of the claim, it is necessary to correspond between the

581 operating officials to determine where the loss occurred?

A. That is right.

Q. It sometimes happens in truck transportation that shipments are accepted under circumstances where satisfactory service cannot be given, isn't that correct?

A. That happens.

Q. Do you think there is any more likelihood of acceptance of shipments where proper service cannot be given, or where the points cannot be reached by the truck, in the case of a two-line operation than in the case of a single-line operation?

A. I can't see that it makes any difference. We have had that experience in the past, and if there is any question about the fact of whether we might be able to handle it, we teletype ahead; in addition to that, state regulations require a certain procedure, no matter whether the line is in two divisions or whether it is two companies. For instance, whether it would be like the proposal

here connecting with ours, or a through line such as the Consolidated.

Q. Do you see any reason why the agents or solicitors of connecting lines, in the case of connections such as you are proposing here between this applicant and your company, should not be just as familiar with the services available to points reached by your line as a solicitor on your own line would be?

A. We would want them to be.

Q. You would expect them to be?

582 A. We would expect them to be.

Q. Would you expect there would be any lack of cooperation on the part of your employes and the employes of the connecting line, with respect to service on the line of the connecting carrier, if the application is granted and you made any such connection?

A. We have not had any such experience in the past, and we would not anticipate any such difficulty.

Q. Now, if the volume of business interchanged between your company and the applicant were great enough to justify the through operation of equipment, would you do that, if it could be done within the law?

A. Yes. I don't understand yet if that is permissible. I discussed that recently with a man, and it was my opinion that it had not come to a head yet and would not be allowed; but the desire of the company would be to do that if we could interchange and if the volume was sufficient.

Q. If the aggregate weight in Washington is different than it is in Oregon, do you expect, by reason of the interchange—whatever the defference in weights might be—it would be any more embarrassing between two carriers than it would be in through operation by one carrier?

A. No, I don't see where the difference would be.

Q. Now, if the types of the trailers of your company were different from the types of the trailers used by the applicant,

583 would you regard that as a substantial reason why the two connecting carriers could not give proper shippers service?

A. If the opposite carrier's equipment did not come within the State requirements, it would.

Q. But would that objection be any greater with the two-line haul than it would be with a one-line haul operating in two different states?

A. It would be the same.

Q. Do you expect, in case of an interchange with this applicant, that each line would be able to give proper information to the shipper of the facilities offered by the service of the two lines,

equal to that given by the single haul, or the single-line operation?

A. I think it would be just the same. I can't see the difference.

Q. Now, would you expect a connecting line would be more likely to misroute shipments at the junctions than a single line that transferred shipments?

A. I would not.

Q. Would you regard the routing of joint-line equipment and its interchange at the junction as a matter of any greater disadvantage than might be involved in the meeting of equipment at the interchange or junction by a single-line hauler?

A. Isn't that the same as the previous question?

Q. This relates to equipment. You have got your equipment, and you have got certain things in mind, and you are going
584 to go ahead with it; and the other carrier has its equipment, with certain plans in mind as to what it will do with it. Now, in this question of routing, could that be cooperatively arranged, or would that be an obstacle?

A. It could be done very easily.

Q. Now, would you regard the rehandling of freight at the interchange junction as a matter which would inherently involve shipper disadvantages, compared with a through-line service?

A. Some shippers contend that, and I believe there is some substantiation for it, but the schedule that is proposed into Spokane allows for a sufficient length of time so that transferring would not hurt the schedule any, or it would not help it, if there was no transfer.

Q. How about the transfer of refrigerated commodities, for example? Would that be handled as effectively at the interchange point, where it is moved from one piece of refrigerated equipment into another?

A. I don't see why not. My experience has been short, but I know that for the time I have been there we have been transferring refrigerated commodities without any trouble at all.

Q. Now, if it is lawful to interchange equipment, or if the Interstate Commerce Commission recommends some basis for the interchange of equipment, would two joint lines at a natural junction point be able to meet the shipping public's demand by such interchange as well as a single line?

585 Q. Of course, you are here from a perfectly understandable and selfish standpoint, namely, if the Consolidated Freightways application for an extension is granted, it is not going to turn over any business to you at Portland; isn't that a fact?

A. That is right.

Q. And if there is going to be a company such as this company coming through from Medford to Portland in connection with

the present operation that operates from San Francisco, you would like to do business with that company?

A. That is correct.

Mr. FARRENS. I think that is all.

Cross-examination by Mr. HEDGES:

Q. You, I think, mentioned three lines with whom you connected.

A. Three, I believe.

Q. Mitchell, PTX, and Pierce. Are those all the carriers you interchange traffic with at Portland?

A. From San Francisco, those are the only ones with exception of this case; I believe some of the Los Angeles carriers are permitted to take quantities over 10,000 pounds into San Francisco; that is my understanding.

Q. How many carriers?

A. Two.

Q. And who are those two carriers?

586 A. The Cascade is one of them, I believe, and I understand that Colletti Fast Freight has that privilege.

Mr. BEROL. For your information——

Mr. HEDGES (interposing). Just a moment please.

By Mr. HEDGES:

Q. Are you testifying that your line has not received any shipment from Cascade originating at San Francisco or destined to San Francisco that is less than 10,000 pounds?

A. Well, to my knowledge; well, I would rather say that I could not answer that question. We may have or we may not.

Q. Do you know?

A. I don't know.

Q. You say you have 10,000 pounds a week going from Spokane to California points, that you interchange at Portland at the present time. Is that correct?

A. Yes.

Q. If this application is granted, do you expect that you are going to have more than that?

A. No; we don't.

Q. Are you going to transfer that freight, or are you going to use this applicant to transport that freight from Portland to San Francisco if and when this application is granted?

A. We have not decided that as yet.

Mr. HEDGES. I think that is all.

Cross-examination by Mr. IVERS:

Q. You also have a concurrence with the Los Angeles-Seattle Motor Express?

587 A. Except I don't know what their San Francisco possibilities are.

Q. You have shipped to and received shipments originating at and destined to San Francisco, have you not?

A. From the Los Angeles-Seattle?

Q. Yes.

A. To my knowledge, we have not.

Q. Have you turned anything over to them?

A. No; we have not.

Mr. IVERS. That is all.

Redirect examination by Mr. BEROL:

Q. Mr. Farrens asked you a number of questions and particularly I want to inquire with respect to the transfer of perishable commodities from one refrigerated truck to another. I think you stated that you were doing it, and that you were doing it successfully. Now, in the matter of the transportation of perishable commodities, as a general proposition, what is more desirable, to transfer such commodities from one truck to another, or, where possible, to transport it through on one piece of equipment?

A. Where possible, to transport it through on one piece of equipment.

Mr. BEROL. That is all.

Chairman TERRIL. That is all.

(Witness excused.)

588 Mr. BEROL. Mr. Dickson.

H. H. DICKSON was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name to the reporter?

A. H. H. Dickson.

Q. You reside in Portland?

A. Yes, sir.

Q. You are connected with the West Coast Fruit Company, are you not?

A. Yes.

Q. What is the business of the West Coast Fruit Company?

A. Well, it is a wholesale jobber for bakers, confectioneries, and fountain supplies.

Q. Now, do you have any occasion in the conduct of your business to make shipments between Portland on the one hand and points in California on the other, between the Oregon-California line and San Francisco and Sacramento?

A. Yes.

Q. To what points from Portland do you ship?

A. Well, some commodities go to various places; they vary. At San Francisco and Oakland, I can give you what we previously have shipped; we contemplate other shipments the coming year.

Q. What are you shipping through, or to, San Francisco, locally?

A. Nuts in the shell——

589 Q. What kind of nuts?

A. Mostly filberts; and some frozen fruits. We are just getting into the frozen-fruit game, and that is the thing we are interested in most, is getting them into California in proper condition. We had some experience some time ago that woke us up to the fact that we didn't know of any one shipping in there who had proper equipment.

Q. Do you understand that the applicant, the Oregon-Nevada-California Fast Freight proposes a through service from Portland to San Francisco and Sacramento?

A. Yes.

Q. Leaving Portland one evening and arriving in Sacramento the next evening; a schedule leaving Portland in the morning and arriving at San Francisco the next morning; a schedule leaving Portland in the evening and arriving in San Francisco the next evening?

A. That is what I understand.

Q. Do the commodities which you transport from points,—strike that. Do the commodities which you transport from Portland into California require refrigeration?

A. Yes.

Q. Is the mechanical refrigeration a matter of any convenience or importance to you in the transportation of these commodities?

A. As I understand it, mechanical refrigeration is what we are looking for. As I said, we had some experience with the

590 other type, with dry ice.

Q. What was that experience?

A. Very sad; we lost the finest account that we hoped to get from an experience that we had; we don't know yet what the cause was.

Q. Will you explain why it happened?

A. Well, the fruit was in the form of frozen fruit, and when it reached its destination it had thawed and had been refrozen, and it reached there in a messy condition.

Q. What is the volume in tonnage, approximately, of the commodities that you are shipping from the Portland area to the San Francisco-Oakland area at the present time?

A. I couldn't give you any definite tonnage now, because we are just entering that type of business. What has been done previ-

ously, in this last year, has been very small; it is just a matter of feelers, to get established.

Q. Are you in a position to give an estimate as to what your contemplated tonnage will be?

A. That is pretty hard to say; it is pretty hard to make an estimate when you are just starting into that business.

Q. At the present time, how frequently are you shipping?

A. Well, at the present time I would say we are shipping every month or so, or every two or three months, possibly; it depends on the season; this is seasonal business.

Q. That is, as to frozen fruits?

591 A. Yes.

Q. You are shipping other products?

A. Yes; nuts in the fall.

Q. What is the volume of the nuts in the fall?

A. There are two or three carloads.

Q. Does that move in carloads or less than carloads?

A. As a general rule, pretty close to carloads, on account of the rates.

Q. Now, coming back to the matter of frozen foods: are you familiar with the progress of the frozen food industry in the Northwest?

A. Yes; we are getting into it.

Q. Is that industry progressing, and is that business substantially increasing?

A. Yes; absolutely; by leaps and bounds.

Q. Is it your expectation that it will continue to increase in the future?

A. Absolutely; that is the reason we are working towards that end.

Q. Now, do you have occasion to ship from California points to Portland?

A. We have quite a little tonnage from San Francisco to this market.

Q. By "this market" you mean to Portland?

A. To us.

592 Q. At Portland?

A. Yes.

Q. What do those commodities consist of?

A. All types of bakers' supplies; mixes, fountain supplies, and all types of confectionery supplies.

Q. What is the volume of those types of commodities?

A. Dried fruits—especially raisins, which is a big item with the bakers—in the neighborhood I would say, a car a month, probably a car every other month. That would be in the neighborhood of four or five hundred boxes.

Q. How does that move?

A. A part of that comes by boat.

Q. As to the nonboat shipments, particularly as to the amount available for truck transportation, can you give me any idea as to what your volume is from the San Francisco Bay territory to Portland?

A. Well, those commodities—those commodities which we have designated, how they would be shipped, they come to us either way.

Q. Then I take it your primary interest in this case is in the hope that you will get a through refrigerated service?

A. That is what we are interested in more than anything.

Q. Do you know any such service that is available to you at the present time, offering mechancial refrigeration?

A. Not that I know of.

593 Q. Do you feel that, insofar as that type of service is concerned, there is at the present time, or there is not at the present time, adequate transportation facilities?

A. Well, we don't feel that there is adequate transportation facilities available at the present time.

Q. Now, if the application of this applicant should be granted, do you feel it would be advantageous to you in the conduct of your business?

A. Yes.

Q. And would you use it?

A. Yes.

Q. And is it your desire that service of the type proposed be made available to you?

A. Yes.

Mr. BEROL. That is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. As I understand it, your shipments of these frozen fruits have been more or less experimental or on a feeler basis, and that you are not actively engaged in the business?

A. We are actively engaged in Oregon, and we are getting into the California market.

Q. Do you manufacture those products yourself?

A. Those are not manufactured.

Q. Do you freeze them?

A. Yes; we use the Northwest Ice & Cold Storage plant.

594 Q. Is it your expectation that these products will normally move to California points in full truck and trailerload lots?

A. Yes.

Q. Have you ever attempted to make shipments of full truck and trailerload lots of your products to California?

A. No. But we will probably have more the following season; we have just begun in that market. We had two or three trucks or cars lined up for this season, full load lots, but conditions congested in such a way that we gave it up.

Q. Market conditions?

A. Market conditions caused them to cancel it.

Q. Your customer cancelled the order?

A. That is right.

Q. Normally, you would not expect to move these products in carload lots, but, rather, in less than truckload lots?

A. When they buy, they usually buy in pretty large quantities.

Q. Have you had any experience thus far in calling upon the existing carriers to furnish you mechanically refrigerated service for your products to California in truck or trailerload lots?

A. What is the question?

Mr. ELLIS. Will you read the question?

(Question read.)

A. You mean, have we inquired?

Q. Yes.

595 A. We have inquired around considerably to find out where refrigerated products could be handled.

Q. Did you make any inquiry of this applicant?

A. The applicant?

Q. Yes.

A. I don't know that this applicant is running between here and California, is he?

Q. Did you make any inquiry of the Consolidated Freightways?

A. Yes.

Q. What did you learn from them as to the availability of mechanical refrigeration, mechanically refrigerated trucks and trailers, operating direct from Portland to the San Francisco Bay?

A. We never found that they had mechanical refrigeration.

Q. Did the Consolidated Freightways tell you that they did not have mechanical refrigeration?

A. I can't answer that.

Q. Did the Consolidated Freightways give you any information concerning the present practice of operating through refrigerated equipment belonging to itself or to the applicant in this case?

A. Not to my knowledge.

Q. If such equipment is being operated through at the present time, mechanically refrigerated, so far as you know, would that meet your needs?

A. There is a question in my mind, if it is only one concern of that type.

596 Q. You think that you would want more than one concern of that type?

A. I would say that competition would be good.

Q. But, actually, you have not used the existing services of the Consolidated and this applicant between here and California?

A. No.

Q. You didn't know it was available?

A. I didn't know there was any mechanical refrigeration between here and California.

Q. Then it would be a complete surprise to you to learn that this applicant's equipment has been operating—refrigerated equipment has been operating—via the Consolidated and its own lines daily for the past year between Portland and the San Francisco Bay?

A. Yes; as far as I know.

Q. Have you ever tried to use the services of the Cascade Fast Freight?

A. Yes.

Q. Do they have any mechanically refrigerated equipment?

A. So far as I know, they don't; they didn't use it on what we had shipped.

By Examiner KEPHART:

Q. Does the Pacific Truck Express have any mechanically refrigerated equipment? Do you know?

A. I don't know.

Q. You don't know?

597 A. No.

Mr. ELLIS. That is all I have.

Cross-examination by Mr. HEDGES:

Q. Have you made any shipments to California in mechanically refrigerated equipment?

A. No; not that I know of.

Q. Have you had any experience with it?

A. No.

Mr. HEDGES. That is all.

Chairman TERRIL. Is there any further cross of this witness?

Cross-examination by Mr. IVERS:

Q. What makes you believe that mechanical refrigeration is what you want?

A. Well, from the experience of others, in talking with other people.

Q. Are there other people who have had mechanical refrigeration available to them by motor truck?

A. It must have been, by the way they talked.

Q. And where were they operating?
A. I don't know as to that.
Q. Would it be people that were shipping into California?
A. I couldn't tell you.
Q. Did you inquire of them where they got the equipment, or where they were using it?
A. No.
598 Q. Have you made any investigation as to whether mechanical refrigeration of your products is better refrigeration of your products than any other means of refrigeration?
A. That is my understanding.
Q. Have you made any investigation, I asked you?
A. No.
Mr. IVERS. That is all.

By Examiner KEPHART:

Q. Do you know whether the Southern Pacific Line have any mechanically refrigerated equipment for your purposes?
A. I can't say as I do.
Chairman TERRIL. That appears to be all. You may be excused.
(Witness excused.)
Chairman TERRIL. We will take a short recess.
(Recess.)
Mr. ADAMS. Mr. Dorman.

HARRY DORMAN was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you state your name?
A. Harry Dorman.
Q. You reside in Portland, Oregon?
A. Yes, sir.
Q. With what company are you connected?
A. The Knight Packing Company.
599 Q. You are the owner and manager?
A. No; I am the president of the corporation.
Q. Does that company ship between Portland, Oregon, and points in California north of the San Francisco Bay area, and including the San Francisco Bay area?
A. Yes.
Q. To what points?
A. Well, we ship from the northern boundary of California into San Francisco, and all intermediate points along the line; but I wouldn't be able to tell them all to you.
Q. From the California line to the San Francisco Bay area, including San Francisco?

A. Yes.
Q. That is along U. S. Highway 99?
A. That is right.
Q. Does that take in the points that are intermediate between Red Bluff and Sacramento on 99–E, such as Chico?
A. Yes; we do some business there.
Q. Approximately what is the volume?
A. Ten to fifteen thousand pounds a month.
Examiner KEPHART. Does that move by truck, all of that?
A. Yes. To those intermediate points, it all moves by truck eventually; some of it goes into San Francisco by boat and then comes back.

By Mr. ADAMS:

600 Q. In giving your figures of 10 to 15,000 pounds, is that intended to cover the shipments to points north of San Francisco?
A. Yes.
Q. It all moves by truck to those points?
A. Yes.
Q. Speaking of the boat movement, you didn't include those figures in your total figure which you just gave?
A. No.
Q. That is to San Francisco?
A. Yes.
Q. You do have some shipments, in addition, that move to the San Francisco Bay area, don't you?
A. Yes.
Q. Approximately, what is the volume of those shipments?
A. The immediate Bay area truck movements—daily movements—I don't think that would exceed a ton a month—daily movements by truck to the immediate area around San Francisco.
Q. To the immediate area around San Francisco?
A. That is correct.
Q. What commodities are those?
A. That is practically all pickles.
Q. Relishes?
A. Yes.
Q. Any ketchup?
A. No tomatoes.
601 Q. No ketchup?
A. No.
Q. Have you had any difficulty in getting truck service from Portland to those points?
A. Yes; to those intermediate points. I know it is not just right as it stands now.

Q. Will you explain your answer a little?

A. Well, our shipments leaving Portland are transferred at Medford, and in transferring the shipments of bottled goods the bottles are heavy for the cases anyway—and they do not go through the way they should. They should have very few transfers; the fewer transfers, the better off we are. The boxes get scuffed up, and sometimes there is some broken bottles. The merchandise does not come in as good a shape as it should.

Q. Have you made an investigation to see whether you could get service from existing carriers into this northern California territory, on any through movements?

A. Our shipping clerk says "no."

Q. Did you instruct him to make a thorough investigation of that problem?

A. I have asked him several times, and he says it is not feasible today, the way it lies.

Q. Are you familiar with the application of the Oregon-Nevada-California Fast Freight?

A. Well, do you want me to give my understanding of it?

602 Q. Just answer the question.

A. Well, I am familiar with it to some extent.

Q. They propose a direct, through service to those northern California points. Is that what you understand?

A. As I understand it, they will give a direct service from Portland to northern California points.

Q. And drop off shipments at those intermediate points?

A. Yes.

Q. Were you informed that they had agencies at those points?

A. They have told us that they had agencies at those points.

Q. Is your business a highly competitive business?

A. Very highly competitive.

Q. Is speed a factor in the conduct of your business?

A. It is one of the vital factors.

Q. Will you explain why it is?

A. In relation to this application?

Q. Yes.

A. Well, lying right next to and adjacent to this territory about which we are speaking is one of the largest producers of pickles in the United States. Where they are handling out of Hayward, California, directly to these points, right to the wholesale grocers' affiliations in these points, giving them very fast service—and, no doubt, the groceryman gives his order on the service—we are lying 500 or 600 miles from a lot of these

603 points, and when the groceryman orders anything, he generally needs it right away, and he wants it on the shelf immediately.

Q. Will the granting of this application be of any benefit to you in the conduct of your business, particularly in the handling of shipments to northern California points? Do you think it would be of any value to you?

A. I should think it would be of great value.

Q. You are here supporting the application?

A. Yes.

Q. And you would like to see the Commission grant authority to the applicant, such as he has proposed here?

A. That is right.

Q. If the applicant is granted authority, will you use the services of the applicant?

A. I certainly will if I can't find any better.

Q. You are always looking for improved service?

A. That is right.

Q. Then you are supporting it because you think it would be an improved service?

A. It appears to me it would be a very great improvement.

By Examiner KEPHART:

Q. What percentage of your products which you ship to northern California points is packed in glass?

A. 99 percent.

Q. Does it move in truckload lots to that market?

A. No.

604 By Mr. ADAMS:

Q. In your past experience, have you found transfers en route have resulted in breakage?

A. Yes. It results in a very small proportion of breakage. We have come into a very competitive world. The man who puts his goods out in a nice condition when it is received, not only no broken bottles, but can put a case on the shelf that does not have a gouge or a gap in it, it looks much more attractive to the eye, and merchandise is sold on its appearance nowadays. Boxes that are marred and scuffed from bad handling, regardless of whether the contents are injured, give a bad impression. It just does not look right to the customer. So, in giving service, we have to bear those things in mind, and we are looking for the best service we can get.

Mr. ADAMS. You may cross-examine.

Cross-examination by Mr. ELLIS:

Q. What motor trucks have you used to California destinations?

A. We have used the combination service, to some extent.

Q. Have you used any other service?

A. I can't explain that to you. I know we have used the combination service, but that is all I know.

Q. Do you know whether you have complained to anyone about the inefficiencies of the combination service?

A. Yes.

605 Q. Who have you complained to?

A. We have complained to the Consolidated Truck Lines. I have personally called upon the Consolidated and told them that the stuff at Medford was being mishandled, and was not in good shape when it reached the consignee.

Q. Did you ever make any investigation to learn whether that mishandling was done by the Consolidated or by the applicant in this case?

A. No, sir.

Q. Would that be of any significance or importance to you in the determination of what line you are going to favor or to use?

A. I am not here to favor any line. I am here to get service.

Q. You don't care from whom you get the service?

A. I want the service. But the mishandling at Medford is a bad thing for my business.

Q. How frequently have mishandling occurred?

A. It has come to my attention two or three times; it has been called to my attention by the grocerymen and by the salesmen; it has come to my attention that way.

Q. If an arrangement could be made at Medford to avoid rehandling, that would dispose of your objection, I take it?

A. No. I would rather deal with one carrier than with two.

Q. Have you utilized the services of the Pacific Truck Express?

A. Into California points?

606 Q. Yes.

A. When they were running it.

Q. Don't you know that they have been running a daily service into California points?

A. I know it is a very hazardous thing, if they are still running; I understood that they were still running on some sort of a temporary permit.

Q. Have you tried the services of the Pierce Auto Freight Lines?

A. Into California?

Q. Yes.

A. No. I didn't think they had any authority to go into California.

Q. Have you shipped over their lines into Oregon?

A. Yes.

Q. Have you found that service reasonably satisfactory?

A. Yes.

Q. If the Pierce Auto Freight Lines would promise you equal service to your California destinations, would that be of advantage to you, with a through service, without interchange at Medford?

A. You mean the same service that the Oregon-Nevada-California Fast Freight are offering?

Q. Yes.

A. I am looking for service, and the words "Oregon-
607 Nevada-California" or "Pierce" don't mean a thing to me. It is service that I would like to have.

Q. Did your shipping clerk tell you that Pierce was giving a through service, without interchange at Medford, to California destinations?

A. I think, for a very short time.

Q. You have not used that service yet?

A. Not yet.

Q. Are you engaged in any other business than the packing business?

A. You mean, do I own any stock?

Q. Are you interested in any other business, either stock ownership or partnership or otherwise?

Mr. ADAMS: I will object to that question. I don't think that this witness should be subjected to cross-examination of his interest in some other business.

Mr. BROWN: What is the purpose of that question?

Mr. ELLIS: In view of the objection, I will withdraw the question. It is not important.

Chairman TERRIL: Is there any further cross-examination of this witness?

Mr. FARRENS: Yes.

Cross-examination by Mr. FARRENS:

Q. Mr. Dorman, you said you did not ship your tomato juice to California, is that correct?

608 A. Yes.

Q. You haven't quit manufacturing it?

A. I said that 99 percent was glass jars, pickles.

Q. It would be a great blow to me if you couldn't manufacture that tomato juice.

A. I imagine it would.

Q. Sometime ago you appeared at the hearing of the Pacific Truck Express application to extend its operations into the San Francisco Bay area, as a witness on behalf of the Pacific Truck Express?

A. No; I did not.

Q. Did somebody appear on behalf of your company?

A. Mr. Edson, our shipping clerk, did.

Q. His appearance there was on behalf of the Pacific Truck Express, favoring that extension?

A. That I don't know. I will tell you frankly, I have not read the testimony; and he asked me if he could testify in the case, and I had nothing to do with it.

Q. Where did you get the impression, Mr. Dorman, that the Pacific Truck Express had not been rendering through service from Portland to San Francisco?

A. I said, I felt that they were operating under a temporary permit into that territory; that was my impression from talking with their own men on the force.

Q. What time did you have that conversation?

609 A. It was some time ago; I don't know.

Q. A year ago?

A. No; not that long.

Q. Six months ago?

A. Well, I couldn't tell you.

Q. Was it in the last 30 days?

A. No; I think it was before that. It was a couple of months ago.

Q. Well, now, if, as a matter of fact, the Pacific Truck Express is rendering daily through service between Portland and the San Francisco Bay points, and in addition to the service which the Pierce Auto Freight Line is rendering, would such service satisfy your company for a through service?

A. I couldn't tell you. I don't know what their drop-off service is; it perhaps is a drop-off service to some point. It simply must be handled this way, because if we are going to get into those shipping points, the shipments must be right.

Q. If they have a service of that sort, such as the applicant here proposes, would that be satisfactory?

A. I wouldn't say it would be satisfactory, because I don't know.

Q. The fact is, as I gather, Mr. Dorman, you have not made much of a survey, either personally or otherwise, as to precisely what service there is in this territory with which this applicant would come in competition, if he rendered service there?

610 A. Between Portland and the points named, our service has been such that it does not amount to anything. The Pierce Auto Freight has come into the picture lately, I understand; and the Pacific Truck Express has come into the picture, but the thing has not been stabilized.

Q. You are testifying in a case wherein, you appreciate, the Commission must determine the outcome of the case on the basis of the service that is now available; you understand that, don't you?

A. Well, I am not here to say what the Commission should do.

Q. I am asking you if you understand the issues in the case in which you are testifying. The issue is whether or not, in addition to the service which is now in the field, public convenience and necessity requires the services proposed by the applicant. Do you understand that to be the issue?

A. Yes; I think I understand that.

Q. And as to the service which is now in the field, you are not particularly well informed, are you?

A. No; I am not to the point where I can say whether Mr. Pierce is permitted to drop off shipments in northern California to the Bay area; I don't know.

Q. You don't know what the Pacific Truck Express does?

A. It is my understanding that the Pacific Truck Express can drop off shipments, but where they are lacking, as far as we have been able to find out, is that they do not have agencies at these point to handle the freight.

611 Mr. FARRENS. Thank you.

Chairman TERRIL. Any further cross of this witness?

Cross-examination by Mr. HEDGES:

Q. Do I understand that of this 10 or 15,000 pounds per month that you are shipping into the territory now, a portion has been moving into San Francisco by boat and then back to truck?

A. Not a proportion of that amount; a proportion of our freight does.

Q. Into the territory that you are now speaking of?

A. Yes. The reason for that is that we are closer to the warehouses in San Francisco than it is to send it the other way.

Q. How far up into California do you utilize that service?

A. Into Woodland.

Q. That would be the farthest point?

A. I know that is approximately the back-haul point we have set; we wouldn't like to send it up much farther.

Q. Through the utilization of that service have you been able to serve those customers?

A. Through the utilization of the San Francisco warehouses, yes; but it is a very expensive operation for us.

Q. Then, as I understand it, the two things you are interested in at this time is to get your shipments through without the necessity of interchange en route and, secondly, to deliver at these points through an agency of the carrier?

612 A. That is one part of it; another part is not having the back haul; also, with enough speed so that we know the service in there will be reliable at all times.

Q. You know, don't you, that the Oregon-Nevada-California Fast Freight now maintains agencies at all these points you have mentioned?

A. Our shipping clerk tells me that.

Q. You know they have equipment that has been moving through to Portland?

A. On trailer service, but not drop shipments.

Q. Is it your understanding that shipments are not put on that through trailer that are drop shipments between Medford and San Francisco?

A. That I don't know. I understand the trailer was a through trailer to San Francisco.

Q. That it didn't handle shipments to intermediate points?

A. I knew it was a through trailer to San Francisco; I don't know about that.

Mr. BEROL. In order that the matter may be clarified—I don't recall whether Mr. Gritsch has testified about it—but if he has not, the record will show that on the through trailers it is a through service between Portland and San Francisco. Service is not offered on through equipment at intermediate points.

613 Cross-examination by Mr. IVERS:

Q. What convinces you that the scuffing of the cases was caused by the rehandling at Medford?

A. I say, I have been in the shipping business for some 9 years.

Q. You base it on that?

A. Yes.

Q. Have you had the experience of having those fiberboard cases mislaid so that they become scuffed from the movement of truck bodies in transportation?

A. The only answer to that is that, in shipment of merchandise, any box which is handled more times becomes more liable to be scuffed or marred. There are just more chances, the more times they are handled.

Q. And you know that scuffing can be caused by improper loading or piling something on top of the cases?

A. Yes; of course.

Q. It could be done in that way?

A. Yes. There are many elements that may cause it. When you have a transshipment, you have just twice as many chances to get it scuffed up as where you have a through shipment.

Mr. IVERS. That is all.

Chairman TERRIL. Is there anything further? If not, you are excused.

(Witness excused.)

Mr. BEROL. I will call Mr. McCracken.

614 E. E. McCracken was sworn and testified as follows:

Direct examination by Mr. Berol:

Q. Will you give your name to the reporter?

A. E. E. McCracken.

Q. Where do you reside, Mr. McCracken?

A. Portland, Oregon.

Q. What is your business?

A. A partner of McCracken Brothers Motor Freight, which has I. C. C. rights from Portland south-bound to Junction City and Eugene.

Q. And you have also north-bound rights?

A. Yes.

Q. As a common carrier handling general commodities?

A. Yes.

Q. As a regular route carrier?

A. Yes.

Q. Offering daily service?

A. Yes.

Q. Now, are you familiar in a general way with the nature of the application pending here?

A. Yes.

Q. What is your interest in that application?

A. My interest in the application is purely selfish, from the standpoint of our own operation; and that is that, in the last ten years we have been operating a freight line between Portland and Eugene as the most southerly point. Since the be-

615 ginning of our operation we have had the competition of the Consolidated Freight Lines, now the Consolidated Freightways, which has come into our territory, and they operate south of Eugene as far as Medford. The Pierce Auto Freight Lines have come into the picture and are operating south as far as Medford and Roseburg; and also, to Eugene, the Pacific Truck Express, which operated south of Eugene, has come into the picture, with Eugene rights, and are operating south to Roseburg and Medford. The rail lines and the Pacific Motor Transport are doing likewise. That gives us for competition the Pacific Truck Express, Pierce, Consolidated, Pacific Motor Transport, all who operate to the town of Eugene against us.

By Examiner Kephart:

Q. Who is the Pacific Motor Transport?

By Mr. Berol:

Q. You mean the Pacific Motor Trucking Company?

A. I guess it is. They have come into the picture, operating against our operation. So it is becoming impossible for us to carry

on our operations between Portland and Eugene without some relief, due to the fact that all the carriers I have mentioned operate south of Eugene. They operate south of Eugene and they have rights into our territory. And, by way of explanation, I will point out this fact: for instance, if we move a car of soap or a car of canned goods, or anything to Eugene, which is a distribution center, there is always a certain portion of the car that moves south-bound to Roseburg or Medford. Then we have to
616 utilize either one of the carriers that operate in competition to us to Eugene; and for that reason we are shut out of that business, or will be shut out of it entirely, because the carriers that we are forced to use south-bound, out of the territory, after we break the car, are able to go to our customers, which we have had for 8 or 10 years, and explain to them that they can handle the complete service themselves, whereas, now, they are only performing a part of the service; and they may be able to convince the customer that they can do a better job than we can.

Q. Have you any instances where the carriers that you have mentioned have done just that?

A. Yes. It has happened to the Colgate account and the Palmolive Account in Oakland, and to Proctor & Gamble in Seattle.

Q. Is there any other available means by which you can obtain that service south of Eugene?

A. What do you mean by "any other"?

Q. Any other means than by using these very lines that compete with you? Is there any other available means by which you can obtain that service south of Eugene without at the same time facing the competition of the carrier to whom you turn it over in your territory?

A. No.

Q. If the applicant is permitted to serve the territory it seeks to serve, that would provide a kind of an outlet which you state you need?

617 A. It will provide an outlet if they secure rights south of Eugene to Medford, into that territory, which we will not have if this application is denied, and it will be difficult to survive in our own operation.

Q. Have you discussed the matter of joint rates with the applicant?

A. We have.

Q. Are you satisfied you will be able to work out joint rates which will be satisfactory to you both?

A. Yes.

Q. Do you know any of the officers of the applicant corporation?

A. Yes.

Q. How long have you known them?

A. Since about 1927.

Q. Have you any opinion as to their reliability or dependability as a transportation agency?

A. Yes.

Q. What is that opinion?

A. Well, we have seen in the last 13 years an operation grow from a one-truck operation to one of the finest operations in California and up to the Oregon line and into Nevada, which, in my opinion, has surprised all the northern operators who knew Mr. Gritsch before he went to California.

Q. Based upon your knowledge and experience in freight transportation—I might state that the California sunshine
618 had nothing to do with it—based upon your knowledge of the Gritsch boys and their operations, what would you say as to their responsibility as a transportation agency?

A. They have been very successful, and are responsible.

Q. Based upon that knowledge, would it be your expectation that, if they are authorized to serve the territory which they now seek to serve, that they will render a responsible service?

A. Yes.

Q. Is there anything further that you desire to add to your testimony, Mr. McCracken?

A. Only that I would like to see the operation authorized for that purpose.

Mr. BEROL. You may take the witness.

By Chairman TERRIL:

Q. Mr. McCracken, is it only in connection with the interstate shipments that you have this difficulty?

A. Largely; yes. There are very few intrastate shipments that are broken up at Eugene.

Q. How do you move that south-bound interstate business? I mean, how far do you move it south? Do you move it beyond Medford?

A. At the present time, Medford is the extreme point southbound. That very seldom goes into California on a distribution set-up. However, we have had goods go to California for a customer of ours in Eugene, which we have had to turn over to one of our competing lines.

Q. Right at Eugene?

619 A. Yes.

By Mr. BROWN:

Q. You have no through rates with any other connecting carrier south from Eugene?

A. We have through rates with the Los Angeles-Seattle Motor Express at the present time into the Bay District.

Q. To any point in Oregon?

A. We have over to Reedsport and that way, but not south of Roseburg.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ELLIS:

Q. Do you think you need any more competition between Portland and Eugene at the present time?

A. Well, I can't say. Well, I don't think we need any more competition between Portland and Eugene. I can't say it would be a detriment to our territory, but I don't think we need any more.

Q. Originally you appeared in this case as a protestant, did you not?

A. Yes.

Q. Is it not a fact that you withdrew your appearance as a protestant only upon the amendment of the application herein to avoid pickups and deliveries in the territory served by you?

A. Well, I think I made my explanation clear as to why I am appearing here. If this operation had proposed the same service as Pierce and the Consolidated are serving today, we would
620 be just as bad off as we are with their operation. We want an operation that does not serve our territory, with which we can do business in the South beyond our territory.

Q. It was that amendment that caused you to withdraw your protest?

A. Yes.

By Examiner KEPHART:

Q. Are there any local lines operating from Eugene to Medford?

A. There are locals out of Eugene, but not south of Roseburg. There is no local line that operates beyond Roseburg except Pierce and the Consolidated.

Q. There is one from Eugene as far south as Roseburg, a local line?

A. I don't know whether they run a local there or not; I think it is handled on through equipment now.

By Mr. BEROL:

Q. I think the Examiner had in mind whether or not there was any local operation south of Eugene that does not operate through?

A. None other than the Consolidated or Pierce.

By Examiner KEPHART:

Q. I mean strictly local, one that does not go north of Eugene, and which does not go south of Medford or Weed?

A. No.

Cross-examination by Mr. FARRENS:

621 Q. Were you here this morning, and did you hear the testimony of Mr. Toye?

A. No.

Q. Did you hear the testimony of Mr. Lee yesterday?

A. I was here for a few minutes, but I got up and left.

Q. Did you hear his testimony relating to the 14 points?

A. No; he just started when I quit.

Q. What you propose to do is to interchange with this applicant at Eugene business destined to or originating at points between Eugene and Portland?

A. Only insofar as distribution is concerned on cars that move to Eugene in a full movement, such as 10,000 or 20,000 pound shipments which move to Eugene, and a part of it moves on south.

Q. Then do I understand you would not accept at Albany a shipment destined to San Francisco?

A. Not if this carrier or carriers are able to take it the same night. If they take it at Albany and haul it south, we would not pick it up. We won't pick it up at Albany and haul it to Eugene in other words.

Q. As I understand the limitation, there would be no freight north of Drain picked up for California points?

Mr. BEROL. Service is offered between California and points north of Drain, and the only exclusion is between Drain and Portland as to such traffic as may originate at such points for Portland. There is no restriction as to traffic either originating at or destined to this local territory, that moves

622 from or to points beyond Drain.

Mr. FARRENS. In view of the necessity to close the hearing at 12:30 today, I will not cross-examine the witness any further.

By Examiner KEPHART:

Q. Do you have interstate rights over your routes?

A. Yes; we do.

By Mr. FARRENS:

Q. Is it your intention or your understanding that you will accept shipments at points on your line destined to points south of Drain, up to and including Medford?

A. Only insofar as shipments moving in a pool car, with a bill of lading with destination at Eugene.

Q. You mean for distribution out of Eugene?

A. That is correct.

Q. All you are interested in, so far as this applicant is concerned, is the plan of interchange that you mentioned with the applicant at Eugene, on traffic which comes in these so-called pool cars to Eugene, destined to points south of Eugene, up to and including Medford?

A. Yes. And we would like to be able to recommend to our good customers some carrier other than our competition, south of Eugene.

Q. Let me understand you. Are you here representing anybody besides the McCracken Motor Freight?

A. No.

Q. You are not representing the shippers in Eugene, or
623 any local service from Eugene to those points?

A. No.

Mr. FARRENS. I will ask that the answer be stricken.

Mr. BEROL. He was talking about the requirements of his own business, and not the requirements of any other shippers.

Examiner KEPHART. Other shippers or any shippers?

Mr. BEROL. Any shippers.

Chairman TERRIL. The motion is denied.

Cross-examination by Mr. ELLIS:

Q. McCracken Brothers Motor Freight is the agent for the Los Angeles-Seattle Motor Express at Eugene, is it not?

A. Yes.

Q. And you perform both pick-up and delivery and solicitation service for them?

A. Yes.

Mr. ELLIS. That is all.

Mr. BEROL. That appears to be all. Thank you.

(Witness excused.)

Mr. BEROL. I will defer to Mr. Adams.

Mr. ADAMS. Mr. Albrecht.

E. A. ALBRECHT was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you state your name, please?
624 A. E. A. Albrecht.

Q. You are the Traffic Manager for the Easson Soap Company?

A. Yes.

Q. At Portland?

A. Yes.

Q. Does your company ship soap between points in Oregon and California?

A. Yes.

Q. What points in California?

A. To Weed, Redding, and down as far as San Francisco.

Q. Approximately what is your volume of shipments to the points of Redding and Weed?

A. Weed would run, about, approximately 15,000 pounds a month; Redding perhaps may run from 5,000 to 8,000 pounds a month; and then there are smaller shipments going on farther south that aggregate from 5,000 to 10,000 pounds per month.

Q. You mean to points south of Redding, between Redding and San Francisco?

A. Yes.

Q. South of San Francisco, what is your volume per month?

A. We ship most of our stuff down there by rail; there is some movement by truck; 5,000 pounds, perhaps.

Q. I take it you are primarily interested in service to the points north of San Francisco on United States Highway 99 in California?

625 A. That is right.

Q. Are you familiar with the application of the applicant here?

A. No; I am not. It is my understanding they are applying for a permit to operate.

Q. You understand that they propose to give service——

A. (Interposing.) From Portland to San Francisco; yes.

Q. What difficulties have you had with the existing service to those northern California points north of San Francisco?

A. The trouble we are having now is the complaints from our consignees at both Weed and Redding, as to the inconvenient time the trucks arrive with the merchandise.

Q. And the merchandise is left to stand out?

A. Some trucks arrive there on Sundays, making it necessary for the consignee to have somebody at the warehouse to receive the merchandise on Sunday; and during the night, making it necessary for the night watchman to handle the shipment, which he is not ordinarily supposed to do.

Q. What motor carriers do you use to those points?

A. We have been using Mitchell.

Q. Have you had any complaint with Mitchell's service?

A. Not, except the fact that it is my understanding that he has only three days scheduled per week; and, as I said, the time of arrival at Weed is inconvenient for the consignee.

Q. Have you tried the other carriers that operate between Portland and California points?

626 A. We have in the past, but not recently.

Q. Have you had the same difficulty?

A. Same thing.

Q. Is the matter of transfer en route of any importance to your company?

A. You mean transfers from one line—from one truckline to another?

Q. Yes.

A. Yes, it is; it damages the merchandise. Our merchandise is packed in cartons, and transferring from one truck line to another en route would necessitate one or two additional handlings which has a tendency to break down the packing carton and cause damage.

Q. Is there any other objection to transfer en route?

A. The delay.

Q. Do you prefer one truckline handling your shipments all the way through?

A. Yes; all the way through; to pick it up at origin and take it to destination.

Q. Why is that so?

A. It eliminates extra handling.

Q. Any other factor?

A. The time element.

Q. Any question of responsibility?

627 A. Well, yes; if one truckline handles all the shipments from Portland to final destination, in the event of a claim, you have only one line to deal with; otherwise, you may have two or three lines.

Q. Do you understand that the applicant has terminals and agencies at Weed, Redding, and other points which you have mentioned?

A. I understand they have.

Q. Do you anticipate that you would get away from the time of arrival that you are objecting to now?

A. Yes. That would eliminate some of the objections on the part of the consignees.

Q. Are you here supporting the application?

A. Yes.

Q. Is the proper conduct of your business such that you think that the Commission should grant the applicant authority that it seeks here so that it can handle your products to the northern California points?

A. Yes.

Q. And if the Commission should grant that authority, would you use the service?

A. Yes.

By Examiner KEPHART:

Q. Do any of these commodities move in truckload lots?

A. Some of them do, occasionally; some of it is l. c. l. stuff.

Cross-examination by MR. ELLIS:

628 Q. Have you been familiar with the fact that this applicant, the Oregon-Nevada-California Fast Freight, now has a separate system, with agents in northern California points, that you desire to serve?

A. Yes; I understand that they have.

Q. And did you know that they were giving daily service through their connection with the Consolidated Freightways?

A. That is quite true, but that necessitates reloading of the merchandise en route, which, as I have stated, tends to damage our merchandise.

Q. You would rather have the slower service, in a through truck, than you would a faster service if the service required the transfer of the merchandise en route?

A. That is right.

Q. Does that account for the fact that you have been using the services of Mitchell Brothers only three days a week?

A. That is true.

Q. Are there any other factors which would induce you to utilize the Mitchell Brothers?

A. Through service is the principal reason.

Q. But there are other reasons?

A. Well, I wouldn't say that there was. The through service is the reason.

Q. Do you know whether the rates you have been paying Mr. Mitchell correspond exactly with those charged by other freight lines?

629 A. Yes.

Q. Do you operate a transfer company in connection with your business?

A. No.

Q. Are you familiar with the Albrecht Transfer Company?

A. No.

Q. How long has it been since you have used the services of this applicant and Consolidated Freightways?

A. Oh, it has been several years. I imagine it would be three or four years.

Q. If those companies could make a through service available by the interchange of trailer equipment and thus avoid the transfer of freight, that would meet your principal objection to the service, would it not?

A. Yes; it would.

Q. Are you familiar with the service now being afforded by the Pierce Auto Freight Lines?

A. Yes; I am. I think they have one schedule—one a day, I think. That is what they told me.

Q. Did you know that there was a daily through service from Portland to northern California points, including San Francisco, by the Pierce Auto Freight Lines now?

A. Yes.

Q. Have you tried that service?

A. No; I have not.

630 Q. Why haven't you?

A. Why?

Q. Yes; if a through direct service was so important to you?

A. Why haven't I tried it?

Q. Yes; why haven't you tried that service?

A. Their time of arrival at Weed and Redding is similar to the one that we are using now, so that it would not eliminate that objection.

Q. Do you know what time the Pierce Auto Freight arrives at Weed and Redding in the south-bound movement?

A. Their arrivals are early in the morning, I understand.

Q. And Mitchell arrives in the afternoon or evening?

A. No. I said I had the same objection to them.

Q. If the actual arrival of the Pierce Auto Freight Lines would be in the afternoon or evening, would that meet your needs?

Mr. BEROL. I would like to ask counsel whether Pierce is actually operating through equipment between Portland and San Francisco, on a daily schedule?

Mr. ELLIS. I can say definitely that Pierce is operating through equipment from Portland to San Francisco.

Mr. BEROL. Without interchange at Medford?

Mr. ELLIS. Yes, without interchange.

Mr. KENT. How long has that been going on?

Mr. ELLIS. Since June 24.

Mr. KENT. Of this year?

631 Mr. ELLIS. Yes.

Chairman TERRIL. What was the last question?

Mr. ELLIS. Will you read it, please?

(Last question read.)

A. No; it would not.

By Mr. ELLIS:

Q. What time do you want your soap to arrive at Weed?

A. It should arrive for delivery to the consignee during the warehouse hours.

Q. Do you know what those warehouse hours are?

A. From about 9:00 o'clock until 4:00.

Q. Have you been assured by the applicant that they will guarantee delivery at most of these points between those hours?

A. Well, with a schedule of six—I understand they are going to operate six schedules a day—it will be possible to have the merchandise on a delivery that would arrive there during the day sometime.

Q. That is your understanding, that they will operate six schedules a day between Portland and northern California points?

Mr. BEROL. Irrespective of whether it is six or less than six, I am prepared to state that the deliveries will be available between 9:00 o'clock in the morning and 5:00 or 6:00 o'clock in the evening.

Mr. ELLIS. How about the six schedules a day?

Mr. BEROL. We are not guaranteeing six schedules a day.

632 By Mr. ELLIS:

Q. Were you aware of the fact that you can now get second morning service to Weed and Redding via the Pierce Auto Freight Lines?

A. No; I had not been advised of that.

Mr. ELLIS. That is all.

Cross-examination by Mr. FARRENS:

Q. Have you investigated the through service of the Pacific Truck Express between Portland and Redding and Weed?

A. We have used that service.

Q. How long ago has it been since you have used that service?

A. It has been two years or more.

Q. You don't know what their present service is?

A. No; I don't.

Mr. FARRENS. That is all.

Mr. IVERS. No questions.

Redirect Examination by Mr. ADAMS:

Q. You understand, regardless of the hour of arrival at Weed, that the agency will be open for the receipt of freight?

A. That is what I have been advised.

Mr. ADAMS. Thank you.

(Witness excused.)

Mr. BEROL. I will call Mr. Merkey.

AMOS MERKEY was sworn and testified as follows:

633 Direct examination by Mr. BEROL:

Q. Will you state your name for the reporter, please?

A. Amos Merkey.

Q. You reside in Eugene?

A. Yes.

Q. What is your business?

A. I beg your pardon?

Q. What is your business or occupation?

A. Tent & Awning business; canvas goods.

Q. That is located in Eugene?

A. Yes.

Q. In connection with the operation of your business at Eugene, do you have occasion to receive shipments from the San Francisco Bay area?

A. 89 percent—85 percent of my canvas goods come out of the Bay district.

Q. Are you familiar in a general way with the nature of the application pending here?

A. Yes.

Q. And you understand that the Oregon-Nevada-California Fast Freight is proposing a through, direct service from San Francisco and Oakland to Eugene, arriving in Eugene late in the afternoon following the day of departure from San Francisco?

A. Yes.

634 Q. How frequently do you have occasion to receive shipments from the San Francisco Bay area?

A. Sometimes I will have between two and three shipments a week.

Q. How are you receiving your shipments at the present time?

A. Pacific Truck.

Q. And did you at any time use the services of this applicant in conjunction with the Consolidated?

A. I have.

Q. And did you discontinue that service in favor of the through service?

A. I did.

Q. Why is that?

A. There was too much delay, and you never knew when you would get your materials.

Q. Now, with respect to the shipments that you receive at the present time, where do you receive them—when do you receive them after they leave San Francisco?

A. The second morning after.

Q. Is the question of delivery, time of delivery, an important one?

A. Yes; it is.

Q. Would the question of delivery late in the afternoon of the following day as compared with the second morning be of importance to you?

635 A. Absolutely.

Q. Why is it important?

A. These goods would come in, and it would give me a line-up of my work; lots of times I expect a shipment in in the morning, and I don't get it, and it throws everything out of line; whereas if I could get it the day before, I can make it up.

Q. It gives you an opportunity to line up your work?

A. Yes; I can get it the day before and I can line it up; the idea is to get it and make it up as fast as you can.

Q. Would the service such as proposed by the applicant here be an advantage to you in the conduct of your business?

A. Yes.

Q. Would you use it, if the service was authorized?

A. Yes.

Mr. BEROL. That is all; you may take the witness.

Cross-examination by Mr. ELLIS:

Q. Do you know what has occasioned the delay in the shipments which were handled by this applicant and the Consolidated?

A. One cause is this: I have shipped over Consolidated and I have shipped over the Pierce Line. I order it out, and I have ordered it shipped by either concern. I never knew which one was going to receive it; several times the shipments came through to Portland by mistake. It is a scrap in Medford as to who gets it there.

636 Q. In the cases where you have used the services of this applicant and the Consolidated, were you able to ascertain who was at fault for the delay?

A. No. The only answer I could get out of them was that it was delayed in Medford.

Q. Who told you it was delayed in Medford?

A. The agent.

Q. The Consolidated Agent?

A. The Consolidated agent, and also the Pierce agent.

Q. Did they tell you the delay was the fault of the Oregon-Nevada-California Fast Freight?

A. Well, not just so that you could write it down; they always shift it on somebody else.

Q. The answer was that the responsibility was the Oregon-Nevada-California Fast Freight's in not getting it into your hands, because they didn't get it through to you promptly?

A. Yes.

Q. I assume you never investigated whether it was true or not.

A. Not any more than I could pretty much figure. I told them a few words that I don't think you would find in the dictionary; you know what I mean.

Q. Have you used the Pierce Auto Freight Line to San Francisco Bay points lately?

A. No; not this year.

Q. Do you know that they are conducting a through service?

637 A. They informed me, and I said I had a good shipper, which was a through line; and as long as they sent me stuff through in good shape, as good shape as they have in the past, I would not consider switching.

Q. You would not consider switching from the Pacific Truck to Pierce?

A. Not until I could be shown there was better service. It is the best service we have gotten so far.

Q. Notwithstanding the fact that Pierce is giving you daily, through service at the present time, you would not switch?

A. I would say I would not switch because I have nothing against either one; it is the service I want; I have not tried it since.

Mr. ELLIS: That is all.

Cross examination by Mr. FARRENS:

Q. Mr. Merkey, do you operate night shifts in your plant?

A. Sometimes I go down there and work.

Q. Yourself?

A. Yes. I can't work my employes at night.

Q. How many employes do you have?

A. Mostly, two.

Q. So that ordinarily your business is done when?

A. Between 8:00 and 5:00.

Mr. FARRENS: That is all.

638 Mr. HEDGES: No questions.

Mr. IVERS: No questions.

Mr. SCHAFER: No questions.

Chairman TERRIL: That seems to be all.

(Witness excused.)

Mr. BEROL: Mr. Ott.

R. G. OTT was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your name for the reporter?

A. R. G. Ott.

Q. Where do you reside?

A. Portland.

Q. What is your business?

A. With the Springer-Ott Company.

Q. What is the nature of the business of the Springer-Ott Company?

A. Wholesale auto parts.

Q. In the conduct of your business, do you have occasion to receive shipments from the San Francisco Bay area?

A. We do.

Q. Do you receive shipments of both a stock and emergency character?

A. Yes, small shipments, what we might call fill-in shipments for hurry-up orders.

639 Q. Respecting your normal stock shipments, how frequently do you receive them?

A. We plan to replenish or order on the entire stock two or three times a month.

Q. What agency of transportation have you used for those shipments, Mr. Ott?

A. We have used some truck, and some rail.

Q. Under what circumstances do you use rail, and under what circumstances do you use truck?

A. Well, where it is a small shipment and we need the merchandise in a hurry, we generally use the truck or Express, depending, of course, on the size of the shipment.

Q. Is there any difference in the freight rates of your commodities, between rail and truck?

A. There is a little difference there.

Q. Which is higher?

A. The truck is higher than the rail; on the other hand, the rail does not make delivery to our door; it is not store-door delivery.

Q. In other words, you ship by rail from terminal to terminal, under terminal to terminal rates?

A. Yes.

Q. Are you familiar in a general way with the nature of the application that is pending here?

A. Yes, that is of the Oregon-Nevada-California Fast Freight?

640 Q. Yes.

A. Yes.

Q. You understand that the Oregon-Nevada-California Fast Freight is offering a through service between San Francisco Bay points and Portland?

A. Yes.

Q. Now, have you used the combination services of the Oregon-Nevada-California Fast Freight and the Consolidated Freightways?

A. To some extent; to a small extent, I would say.

Q. What has been your experience in connection with that?

A. Well, we have not had, of course, possibly, enough volume to get an answer to that. There has been some little trouble there from transshipment, and some slight damage to cartons, to the heavier parts which we have ordered. For instance, like a vacuum power brake valve.

Q. As between an interchange service between two carriers and a through service with one carrier, which is the more desirable for your business?

A. Through service, by all means, I would say.

Q. If the Oregon-Nevada-California Fast Freight is authorized to serve over this area, will you use this service?

A. Yes.

Q. Is it your view that it will be of assistance to you in the conduct of your business?

A. If it is as stated, second morning delivery, it would
641 be of considerable assistance. Our rail delivery now is third or fourth morning.

Mr. BEROL: That is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. You think second morning delivery by truck would be of some assistance, and would be a satisfactory service to meet your needs.

A. We lost an order on an eastern shipment because the Universal happened to deliver to our competitors ten minutes ahead of our delivery; and that comes up every once in a while. In other words, having the merchandise on hand; and there are certain numbers or items, such as power brakes, for instance, for which you might not have a call in a week, and again, you might have two or three calls in a day.

Q. Does second-morning delivery fill your needs?

A. Second-morning delivery, with a quick, reliable transportation agency.

Q. Do you know whether the second-morning delivery is available to you now?

A. I understand that the Pierce people have recently put in a through service; we have not used it yet. We used to use Pierce a good deal from Portland to southern Oregon connections, when we had a local salesman residing there.

Q. Do you find that service satisfactory?

A. We don't use it now.

642 Q. Did you find it satisfactory?

A. We haven't had occasion to use it for a couple of years now. We have changed our method of distribution.

Q. Do you know of any other second-morning service by existing carriers from San Francisco?

A. As I understand, the Consolidated and the Oregon-Nevada-California Freight is supposed to give that; I presume the Pacific Truck Express would make that.

Q. I assume you have made no particular investigation concerning the volume of tonnage moving between Portland and San Francisco so as to be able to express an opinion as to whether or not there is enough traffic to justify one or more additional carriers between those points?

A. I am a very firm believer in responsible competition, and we prefer to favor the trucklines that give us the service, naturally, our business being automotive, we would favor the trucklines; we cannot do that in all cases, of course, but we prefer the trucklines because our business is automotive.

Q. You don't profess to have made any study of the volume of tonnage available?

A. No general study of that, no. That is a little out of my line. We have troubles enough of our own.

Mr. Ellis. That is all I have.

Mr. Farrens. No questions.

643 Cross-examination by Mr. Ivers:

Q. You recognize that this question of competition can also reach a ruinous situation where you can't get as good a service?

A. I understand the Interstate Commerce Commission has authority to govern that; and we only know that through competition has truck service been built up to the efficiency it has today.

Q. You would not advocate an over-sufficiency in transportation?

A. No, I don't believe in that, either; but I do believe in a reliable through service, because that is good for business.

Q. How many reliable carriers do you think there should be?

A. Well, that is not for me to say.

Q. How many do you think there should be until there is a sufficiency of competition?

A. I repeat, I don't know. I know there are several companies that are running that way that haul some freight; but I don't know whether they are very reliable or not.

Q. If there were three admittedly reliable companies, would you say that is sufficient?

A. In my opinion, I would say three or four first-class, reliable companies would possibly cover the freight hauling at this time.

Mr. IVERS. That is all.

Mr. BEROL. That seems to be all. Thank you very much.

(Witness excused.)

Mr. ADAMS. Mr. Plancich.

644 ANTHONY D. PLANCICH was sworn and testified as follows:

Direct examination by Mr. ADAMS:

Q. Will you please state your name?

A. Anthony D. Plancich.

Mr. HEDGES. How do you spell that?

The WITNESS. P-l-a-n-c-i-c-h [spelling].

Q. With what company are you connected?

A. A. Plancich and Company.

Q. What is the business of that company?

A. We ship a lot of oysters down South.

Q. You ship from Portland to points in California?

A. Yes.

Q. What points?

A. Sacramento, San Francisco, and Oakland.

Q. Approximately what is the volume of your shipments per year?

A. Oh, per year, I wouldn't say exactly; I would imagine about possibly 8,000 pounds a week, or 10,000 pounds; something like that.

Examiner KEPHART:

Q. Always less than truckload quantities?

A. Always less than truckload quantities.

By Mr. KENT:

Q. That is an average per week?

A. Yes; for 7 months of the year.

Q. That is, an average of 8 to 10 thousand pounds a week for 7 months of the year?

A. Yes.

645 By Mr. ADAMS:

Q. You use motor carrier services in connection with the shipments you have just described?

A. I do.

Q. Are you here supporting this application?

A. Yes.

Q. Has the existing service been able to meet your needs?

A. No; it has not.

Q. You have utilized about all the existing motor carrier service?

A. Yes; I think I have used quite a few of them.

Q. In what respect have they not been able to meet your needs?

A. Well, for one thing, lack of refrigeration; oysters being perishable, they should be refrigerated at all times with ice until they get down there.

Q. Are you familiar with the services of the applicant in the way of refrigeration?

A. Yes; I know about it.

Q. What type of refrigeration is that?

A. I believe it is a unit on the truck.

Q. Mechanical refrigeration?

A. Yes.

Q. Have any of the carriers that you have utilized accorded you mechanical refrigeration in the past?

A. None of them.

Q. Are your goods susceptible to damage in transit?

646 A. Yes. So far as any damage is concerned, I could never get anything out of them. I think it is transferred, and they say you have to get it from this other carrier; and so they pass the buck from one to the other.

Q. You are interested in a through service?

A. Yes.

Q. Not only that, but the question of pressing claims?

A. That is right.

Q. You are interested in speedy delivery?

A. Yes; and here last fall I didn't get it, which caused me to lose some good customers for two months, possibly; my oysters were sitting on a truck in transit.

Q. You are supporting the application?

A. You bet your boots, I am.

Q. So far as your business is concerned, is it necessary for the proper conduct of your business that the Commission grant the authority which the applicant seeks in this case?

A. My business; yes.

Q. If the Commission does grant the applicant authority, would you use the service?

A. Yes.

Mr. ADAMS. That is all.

By Chairman TERRIL:

Q. All of this eight or ten thousand pounds moving per week, does that move by motortruck?

A. Yes.

647 Q. No rail shipments?

A. They have no rail refrigeration at all. It is thrown in the cars, and the only refrigeration they have is a little ice they put on it or around it.

Q. Where do the oysters come from?

A. Willapa Harbor: some from on the Oregon Coast.

By Mr. KENT:

Q. They are sealed?

A. They are in sealed half-gallon cans.

Cross-examination by Mr. ELLIS:

Q. How do they move from Willapa Harbor to Portland?

A. On our own truck: we bring them in.

Q. Would that service be more convenient and desirable if it was a through service from Willapa Harbor?

A. No; because we open them here.

Q. You open them here?

A. We open and seal them here.

Q. Have you used mechanical refrigeration in connection with any of your shipments?

A. No, sir.

Q. How long have you been shipping to these California points?

A. Starting here last October—last September.

Q. How long have you been engaged in the oyster business?

A. At intervals, only for our own use, on our own trucks, for years.

Q. Did you ever use mechanical refrigeration?

648 A. On our own trucks?

Q. Anywhere.

A. No, we have not; we ship every night.

Q. How long have you been handling oysters?

A. For about—all my life.

Q. During that time, you have had no experience in the use of mechanically refrigerated equipment?

A. I have not.

Q. Did you know that there was mechanically refrigerated equipment available at Portland, from Portland to San Francisco?

A. Yes.

Q. Did you know such service was available via this applicant?

A. The Consolidated does not go straight through; they transfer at Medford and at Portland, I understand. They go from Medford to Seattle.

Q. The record indicates that the equipment is mechanically refrigerated, and is carried through from Portland to the San Francisco Bay points?

A. In the Consolidated?

Q. Via the Consolidated and the applicant, the trailer being unhooked from the power unit to the other unit, without transfer of lading; did you know that was available?

A. We knew it was transferred at Medford, but I didn't know there was any refrigeration except what you would put on there in the form of ice.

649 Q. You have used that service?

A. We have used ice refrigeration.

Q. If the Consolidated gave you a refrigerated trailer service so that you could load a mechanically refrigerated trailer at Portland, and it would move to San Francisco Bay points, without transfer of that lading, would that meet your needs?

A. Yes; that would meet my needs. What I am interested in is service. I would want to know that that is a fact.

Cross-examination by Mr. HEDGES:

Q. Do you understand that the applicant is offering here a through service from Portland to San Francisco, through Sacramento?

A. Yes.

Cross-examination by Mr. IVERS:

Q. What temperature do you keep the oysters at?

A. From 45 to 48 degrees.

Q. What happens to them if the temperature gets below that point?

A. It would spoil oysters because if they freeze, frozen oysters are no good.

Q. But if the oysters were carried in refrigerated equipment that was kept at a temperature below freezing, that would spoil them?

A. Below freezing?

Q. Yes.

A. Yes; that would spoil them.

650 Q. If there was other lading on the equipment that required mechanical refrigeration to be maintained at a temperature below 32 degrees, would your oysters spoil?

A. That would be out.

Q. Or even below 35 degrees?

A. No; just so they would not freeze.

Mr. IVERS. That is all.

Redirect examination by Mr. ADAMS:

Q. On this question asked you by Mr. Ellis, with respect to the through trailer service to San Francisco, that would not cover your situation to Sacramento, would it?

A. No.

Q. Is Sacramento an important point to you?

A. One of the biggest that I ship to.

Mr. FARRENS. Is counsel holding out a through service to Sacramento without change of lading?

Mr. BEROL. Most definitely.

Mr. BROWN. Refrigeration service to Sacramento?

Mr. BEROL. Yes.

Mr. ADAMS. That appears to be all.

(Witness excused.)

Examiner KEPHART. So far I have not seen any evidence supporting the application with respect to Camas and Washougal, Washington.

Mr. BEROL. We have had two witnesses from Camas,
651 and they were here at 2:00 o'clock.

Examiner KEPHART. Is the Board to assume that the present through carriers, such as the Pierce Line and the Pacific Truck Express, and the Los Angeles-Seattle Motor Express, and others, will introduce into this record, and also into the Consolidated case, evidence showing their complete operations, before the cases are closed?

Mr. ELLIS. And also the Pierce operations.

Mr. BEROL. And also their operating rights, if any.

Chairman TERRIL. Apparently that is their intention.

Mr. KENDALL. Jackson W. Kendall, I am appearing in my executive capacity as chairman of the Committee on Regulatory Affairs for the California Van & Storage Association, 1335 South Figueroa Street, Los Angeles, California, as our interests may appear. The California Van & Storage Association is an association of household goods carriers exclusively, and the members of that association operate in interstate commerce between the points covered by the application herein.

Chairman TERRIL. We will adjourn this case until August 5, 9:00 o'clock a. m. at the Empire Hotel, San Francisco.

(At 12:30 p. m., July 24, 1940, Portland, Oregon, hearing adjourned until 9:00 a. m., August 5, 1940, at the Empire Hotel, San Francisco, California.)

652 Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience

and necessity, Form B. M. C. 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1.—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2.—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3.—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4.—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5.—Between Redding, California and Lakeview, Oregon, via Alturas, California.

San Francisco, California, August 5, 1940, 9 A. M.

Before: Joint Board No. 5: C. T. TERRIL, chairman; WARREN K. BROWN; C. I. KEPHART, Examiner.

Hearing resumed.

653 Appearances: Same as heretofore noted, with the following additional appearances:

Fred N. Bigelow, 400 Sansome Street, San Francisco, California, appearing for Pacific Southwest Railroad Association, Protestant.

Hulen C. Callaway, 215 West Seventh Street, Los Angeles, California, appearing for Cascade Inc., Protestant.

PROCEEDINGS

Chairman TERRIL. We will be in order, gentlemen.

Will you please take your seats around the table so the reporter will know where you all are, and then I will ask for the appearances.

The Interstate Commerce Commission has assigned for continued hearing Docket No. MC 9115 (Sub No. 1), which is the application as amended of Oregon-Nevada-California Fast Freight, Inc., of San Francisco, California, Form B. M. C. 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Washington, over irregular routes and over regular routes described in the notice as Nos. 1, 2, 3, 4, and 5, notice of which has been received by all interested parties.

654 This matter is assigned for further hearing before Joint Board No. 5 consisting of representatives of the States of Washington, Oregon, and California, the Board being composed of Charles H. Kent of the Department of Public Service of the State of Washington; C. T. Terril, Attorney-Examiner, representing the Public Utilities Commission of Oregon; and Warren K. Brown of the California Railroad Commission. Mr. Kent is unavoidably absent. The record will show that Warren K. Brown and C. T. Terril of Oregon are present. C. I. Kephart, Examiner, representing the Interstate Commerce Commission, is present to assist the Joint Board in the development of the record.

For the benefit of the reporter may we have oral appearances, please, in this matter? You may start, Mr. Roberts.

Mr. ROBERTS. My name is George M. Roberts. I am an attorney authorized to practice before the Commission. I have offices in Medford, Oregon. I represent Pierce Auto Freight Line.

Mr. ELLIS. William P. Ellis, 917 Public Service Building, Portland, Oregon, representing Pierce Auto Freight Lines Incorporated and other protestants. I am admitted to practice before the Commission.

Mr. FARRENS. Paul P. Farrens, 800 Pacific Building, Portland, Oregon; representing North Coast Pacific Freight Tariff Bureau, Southwest Pacific Railroad Association, and
655 Pacific Truck Express.

Mr. BEROL. Edward M. Berol, 235 Montgomery Street, San Francisco, appearing on behalf of the applicant.

Mr. IVERS. Henry T. Ivers, 1405 Hoge Building, Seattle Washington, appearing on behalf of the Los Angeles-Seattle Motor Express, protestant.

Mr. JENNINGS. Thomas D. Jennings, 1001 Southeast Water Street, Portland, Oregon, appearing for Cascade Inc., doing business as Cascade Fast Freight. I am admitted to practice before the Commission.

Mr. SCHAFER. Donald O. Schafer, appearing on behalf of the Consolidated Freightways, Inc.

Chairman TERRIL. We will proceed, Mr. Berol.

Mr. BEROL. If the Board and the Examiner please, Mr. Jones, who testified at Portland, is here. Time did not permit his cross-examination at that time, so he has come to San Francisco for the purpose of answering the questions and cross-examination. He is anxious to get away and I should like to have him made available first for the purpose of cross-examination.

Chairman TERRIL. Very well.

Mr. BEROL. Will you take the witness stand, Mr. Jones?

L. C. JONES resumed the stand and further testified as follows:

656 Cross-examination by Mr. ELLIS:

Q. Mr. Jones, I believe you prepared what is known as "Exhibit No. 6" in this case?

A. I did.

Q. Are you able to identify for this record the items or commodities shown on the Exhibit which would constitute prospective tonnage for the motor carriers?

A. Yes. I believe I can, Mr. Ellis.

Q. Will you do so?

A. This applicant, I believe, is exempted the handling of bulk commodities.

Am I correct?

Mr. BEROL. That is correct.

A. (Continuing.) Yes. That will be barrel Disel and fuel oil.

By Mr. ELLIS:

Q. Do you know how much of that item shown on your Exhibit is moved in barrel lots?

A. I would say that the volume of barrel to the bulk is considerably increased in the last two or three months, according to my observation; perhaps from 25 to 35 percent might be a fair figure.

Q. 25 or 30 percent of that commodity? Of that portion of the Diesel oil do you know whether any of it moves in barrel quantities from San Francisco Bay points to or through The Dalles?

657 A. Well, I would say that my nearest information of that is that it originates at Willbridge in the present movement, and I do know that the bulk of that comes up from California source.

Q. By boat almost entirely, does it not?

A. That is true at the present time.

Q. Then you would not anticipate any through movement of that commodity from Bay points over the lines of this applicant through Portland to points in territories you represent?

A. I wouldn't want to make an assertion that it would not move. I think it might under certain conditions.

Q. But in the natural course of events under present transportation conditions you would expect it to be a very rare and abnormal movement?

A. It might not be a regular movement; no, sir.

Q. What is the next item?

A. Cherries, brined. There is a substantial movement of cherries into California, Los Angeles. I have seen manifests on that.

Q. Those would be primarily to the Los Angeles market, I take it?

A. Yes, sir.

Q. Do you know whether any of them would move to San Francisco Bay points?

A. I wouldn't want to say. The only information I
658 have are manifest shipments that I have seen billed through to Los Angeles. The other items that would be potential shipments would be hardware, machinery, pipe and plumbing goods, some sugar. Seed peas are an upstream movement.

Q. From what point of origin?

A. There was some moved up this spring from southern Oregon?

Q. Those would not originate normally at California points?

A. I presume not. Soap, oleomargarine, flour downstream, roofing paper, fertilizer, canned goods, building material, insect spray. Wool is a downstream movement, but so far has never extended beyond Portland. Groceries, iron and steel, salt, coal, carbonated water, lubricating oil, beer, asphalt, kerosene and sacks.

Q. The kerosene movement would be in the same class as other oils originating largely at Willbridge?

A. That would be comparable; yes.

Q. Is that not also true of asphalt?

A. There might be some asphalt; yes.

Q. Do you know whether there is any substantial part of this nine tons of beer that came from California points—did most of that originate at Olympia, Portland, and Vancouver?

A. There have been numerous shipments that I have seen manifests for that have moved directly from San Francisco, have been transferred from the boat to the river service and continued right into The Dalles.

659 Q. Moving by boat from Bay points?

A. Yes.

Q. Do you know personally of any truck movement whatever of beer from Bay points through the Bonneville Locks?

A. No. I could only testify as to what I have seen on the records.

Q. Lubricating oil would also be in the class of Diesel, would it not?

A. It would be comparable; yes.

Q. Do you know whether there is any movement of carbonated water by truck that would move by boat from Portland through Bonneville Locks?

A. From California source?

Q. Yes.

A. No. I couldn't testify as to whether there would be any originating in California or not.

Q. Do you know whether any of the wine originated in California and moved by truck to Portland prior to this boat movement

A. No. I do know that California is a source for wine. It would be a choice perhaps of the medium of land service or water service.

Q. And without going into detail on the other items, you are unable to say whether any of the tonnage shown on this Exhibit actually moved by truck from California points to Portland prior to this boat movement up the river?

660 A. No. But I would want to make this observation: That one of the inhibitions thus far have been the inability of establishment of this proposed through service at rates that I am interested in with this particular applicant, and as observed in my direct, it has become temporarily and more increasingly difficult to have this coastwise service continued due to scarcity of space. And, consequently, we are very anxious to be assured that we will have this service to and from California.

Q. Your primary interest and your primary activities have been in connection with the development of transportation facilities on the Columbia River, have they not?

A. That has been the primary objective; yes.

Q. And in your experience with water transportation, particularly with transportation on the Columbia River, is it not true that your primary interest is in a connection with other water carriers at Portland?

A. That is true to a certain degree, Mr. Ellis, but the trend and the experiences of the last four or five months have indicated the necessity of having some alternative source and service to assure us that this flow once started would be continued.

Q. But as a practical, long-period proposition, the tonnage which you hope to move on the river is tonnage which is essentially water-borne commerce originating at various ports

661 on the Pacific and elsewhere and moving to Portland via water routes?

A. That is true, that that was the fundamental thesis of the construction. But we still are open to all types of transportation and we bar none necessarily because of its type.

Q. Did you testify as to how many boat lines on the Columbia at the present time handle general cargo?

A. Yes; I did.

Q. Have you personally made any investigation of the existing transportation facilities by common carrier truck from San Francisco Bay points to Portland?

A. Only in a general way, and the information I gleaned from attending the previous hearing.

Q. And in your testimony you did not intend to express an opinion as to whether there was a sufficient number of carriers at the present time operating between those points?

A. No. My position is simply this, as stated: That this applicant has expressed a willingness and a desire to put in a joint service and rates with the water carriers on the river between Portland and The Dalles, and we are very anxious to encourage and develop that.

Q. Have you ever in attempting to encourage and develop through rates with motor carriers taken the matter up with any of the present carriers operating betwen San Francisco Bay and Portland?

662 A. In a general way it has been discussed, but this is the only applicant that we have actually made a contact with.

Q. Have you ever approached the management of any truck line operating between San Francisco Bay and Portland and suggested to them the thought of joint through rates or connections of the kind that you are here approving?

A. No manager of any operating line; no, sir. It has been discussed with other parties, however.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Mr. Ellis asked you whether you knew of any commodities shown on your Exhibit No. 6 which are now moving from California points to Portland and thence via the Bonneville Locks. I would like to have you answer that question with respect to the reverse movement: From The Dalles territory to California points using trucks south-bound from Portland.

A. I will have to answer you in this way, Mr. Farrens: That the downstream movement which might well terminate in California destination areas would be principally the item of cherries, brined. There is some downstream sugar movement, flour. That is about all I would see on this particular list, Mr. Farrens.

Q. And you don't know of any of that ever having moved south-bound from Portland by truck after having passed through the Bonneville Locks by water?

A. No. That is undeveloped at the present time.

663 Q. I assume, Mr. Jones, that you are aware that in this case and in the pending Consolidated Freightways application the stress which is being laid by those applicants is placed upon the elimination of the interchange which they now make at Medford and the furnishing in lieu thereof of a through service between Portland and California points?

A. That is my understanding; yes.

Q. Now, with that in mind I want to ask you if that is the only thing that is presently wrong with truck service between Portland and San Francisco points, namely, this interchange; whether you think the elimination of that interchange would make any difference at all with respect to the interchange at Portland with this applicant's present connecting line, the Consolidated, for transshipment to or from points beyond by water through the Bonneville Locks?

A. I would take this view, Mr. Farrens: That the establishment of the through service at Portland, for example, south-bound would be very desirable and beneficial because of the possibility of a through movement without change of lading, and the other advantage of solicitation and cooperation with a carrier in California area.

Exam. KEPHART: No smoking, please, during the session and no cigarette butts on the floor. We have ashtrays on the table, please.

By Mr. FARRENS:

664 Q. Now, Mr. Jones, between Portland and California points, which method of transportation maintains the lower rate schedule? Trucks or the oceangoing vessels?

A. Normally the lower rate is the coastwise service.

Q. Of the steamships?

A. Yes, sir.

Q. Is the rate situation on a level between water transportation from Portland to The Dalles, on the one hand, and rail and truck on the other?

A. The general level is somewhat of a variance; lower by the coastwise service.

Q. What is the difference in time between truck transportation from Portland to The Dalles, on the one hand, and water transportation on the Columbia River between the same points through Bonneville Locks?

A. To The Dalles, Mr. Farrens, it is competitive. By that I mean the service leaves Portland in the evening and is at The Dalles in about ten hours, which makes a very competitive delivery situation in The Dalles proper. However, as the area is extended

eastward, why, the transfer and the handling from there is slower than direct from Portland.

Q. Well, of course, the trucks actually make the movement from Portland to The Dalles much faster than the river boats?

A. That is true, but as far as——

Q. (Interrupting,) But as far as——

Mr. BEROL (interrupting). Just a minute. Have you
665 finished your answer?

A. (Continuing.) As far as the night service is concerned, why, we consider it competitive.

By Mr. FARRENS:

Q. But as far as daytime service is concerned, that is to say, if the boat left in the morning and the truck left in the morning, the service would not be competitive on the matter of speed?

A. No, no.

Q. Now, looking at the south-bound movement, the water-borne movement to Portland is transferred to truck. That involves unloading from the vessel to the dock, a pick-up at the dock, transportation by pick-up motor vehicle to the terminal of the truck line and then shipment by the line-haul truck; is that not true?

A. That would be the normal procedure, I believe.

Q. So that that handling would be in excess actually of the handling which a shipment would receive if it were interchanged at Medford and again at Portland by through truck service, is that not true?

A. Yes; that is true.

Q. As a matter of fact, is it not true that commodities which are willing to move by water between Portland and The Dalles are, generally speaking, shipment of such character that any delay
666 which might be incurred at the present Medford interchange between this applicant and Consolidated Freightways would be a matter of trivial importance?

A. Well, I would like to qualify my answer, if I may. The principle that we are proceeding in the establishment of the service at The Dalles is to move quantities to be stored on the dock facilities and there distributed into the interior. It is true that the speed of the coastwise or the river service itself is not on an equality with that of rail or motor truck. However, it is our premise that by establishing a distribution at The Dalles to serve the contiguous area, we will be able to give much more expedited service than you can from Portland, Oregon, on your second morning delivery San Francisco.

Q. Now, who took the initiative, Mr. Jones, in the matter of arranging the proposed joint through rates between The Dalles and California points via this applicant's line?

A. I think I did. I have been endeavoring to work out a program for about a year and a half now.

Q. Now, you were aware during that year and a half of the existence of other truck lines operating between Portland and San Francisco Bay points, I assume?

A. Yes. I know there was service.

Q. If this rate were a matter of importance with respect to commodities indicated by you in Exhibit 6, why did you not approach the operating officials of the existing truck lines furnishing
667 service between Portland and San Francisco Bay points at some time during that year and a half for through rates?

A. I will have to answer you in this way: That I haven't been actively participating for a year and a half in the attempt to develop this service. It has taken me considerable time to analyze the structure and the different methods of proceeding. As to the apparent delay in initiating this program of a coordinated service via motor and water, I must say that within the last few years has been the first opportunity I have had to develop the possible connections. As previously announced, the coastwise service has become restricted in the last four or five months.

Q. Now, Mr. Jones, I want to ask you a question that I am sure this Board is going to be interested in. When you did first take the initiative, why, for heaven's sake, did you take it with a carrier that was not operating instead of taking it up with a carrier that was operating?

A. That is a very simple answer. The present service of Consolidated in connection with an affiliate of the Shafer Forwarding Company operating on the river has been eliminated, and I wanted as much open routing naturally via other service, and this line is willing to concur with the river lines other than the Consolidated, and it is very desirable.

Q. That may be a simple answer with respect to Consolidated, but give me now a simple answer with respect to Pacific Truck Express or the Pierce Auto Freight Lines.

668 A. Because it is my understanding that the Pierce Auto Freight Lines was a weekly service and, so far as the Pacific Truck Express, I just had no occasion to contact them.

Q. Rather than contact the company which is presently and immediately able to give you that, if they agreed with you, you chose to contact a company which as yet had no operating rights into Portland and which might not get them. Is that the fact?

A. It is partially true.

Q. Did you ever make a check, Mr. Jones, to find out how many operators there are who are operating trucks in through service between Portland and San Francisco Bay points?

A. I have a general knowledge; yes.

Q. What are those companies?

A. There is the present joint operation as between Consolidated and this applicant. There is the Pacific Truck Express. There is a somewhat limited carrier from Seattle, I believe, specializing more or less in perishable items, as I understand it. And, as I indicated, the Pierce Auto Freight I understood was a weekly service until recently.

Q. What was the name of this "limited" carrier to which you refer which operates between Seattle?

A. My impression is that it is Colletti.

Q. Did you ever hear of the Los Angeles-Seattle Motor Express?

A. Yes; I have heard of them.

669 Mr. BEROL. And did counsel ever hear that under a decision of Division No. 5 of this Commission they are not permitted to service San Francisco?

Mr. FARRENS. Well now, just a minute. If the Board please, that interjection was uncalled for because counsel knows that during all this time, while this witness had under consideration this question of making a joint through rate with a motor carrier and these Bonneville water lines, that that decision of the Interstate Commerce Commission had not yet been promulgated to give them publicity.

Mr. BEROL. And counsel knows, because he participated in the proceedings, that even as far back as the joint report and recommended order of the Board that heard that proceeding, that it recommended that the Los Angeles-Seattle Express be permitted to serve San Francisco. It is only by reason of exceptions filed——

Mr. IVERS (interrupting). And you know that they were serving it and still are.

Chairman TERRIL. Just a moment. We will go around the table, please.

By Mr. FARRENS:

Q. Mr. Jones, did you have any knowledge during this period of a year and a half and for the last several months of the proceedings before the Interstate Commerce Commission in the Los Angeles-Seattle Motor Express case?

A. Only in a general way. I might state that one of the inhibitions are competitive conditions that unfortunately

670 enter into some of these considerations.

Q. Mr. Jones, insofar as The Dalles area is concerned with public convenience and necessity of the proposal of this applicant, I want you to explain to this Board why it was you never approached Pacific Truck Express, which is operating a daily through service between Portland and San Francisco, in

order to get this joint through service and rate that you are talking about.

A. Well, one of the reasons might be that they were——

Q. (Interrupting.) I am not interested in what one of the reasons "might" be. You are the party concerned. What were the reasons, not what they "might" be?

A. I might point out that the Pacific Truck Express until recently was a direct operator between The Dalles. So, obviously, if they wanted a motor service that would be their first interest, wouldn't it?

Q. But you knew that they were not going to continue that operation?

A. I knew that that matter was under acquisition by a rail line, and that decision came out July 1.

Q. And on July 1 you didn't go around to see them about this through rate business? It wasn't that important, was it?

A. Naturally I was interested in the line that would fit into our type of picture for competitive reasons, solicitation and so forth.

Q. If Pacific Truck Express were now to offer you the same through rate situation that you had arranged for with this
671 applicant, would that satisfy the public convenience and necessity of your community in the same fashion as this applicant?

A. It would.

Q. It would?

A. Yes.

Q. And is it not true that any other line of the present lines would satisfy that?

A. That is true, certainly. We hold no brief for any particular type of service or any carrier.

Q. So that as far as you are concerned, your testimony in favor of this applicant here would disappear from this record as far as the question of public convenience and necessity is concerned if any daily operator of a truck line between Portland and San Francisco Bay points would agree to a joint through rate arrangement similar to that which you have arranged for with this applicant?

A. Well, I will have to answer you that we were willing to handle negotiations with any operator that would give us the same type of service.

Q. You are aware that the Cascade Fast Freight also operates a daily service between Portland and San Francisco?

A. That is true.

Q. And you did not make any approach to them during this period while you had this subject in mind for a through rate?

672 A. I have discussed it quite recently with Mr. Jennings.

Q. How recently?

A. Oh, possibly within the last four weeks.

Q. Was that after you had approached the applicant in this case?

A. It was about the same time.

Q. About the same time?

A. Yes.

Q. Was your discussion one which resulted in a refusal of the Cascade Fast Freight?

A. No they were interested.

Mr. FARRENS. That is all. I have just one more thing.

By Mr. FARRENS:

Q. What is your present connection in The Dalles?

A. I am the Commerce Advisor, as my qualifications stated, for The Dalles Traffic Association, which is an incorporation of the Port of The Dalles, the City of The Dalles, the Chamber of Commerce and The Dalles Port Development Company. It is a sort of community activity.

Q. Your position in that respect is the same as it was when you gave your direct testimony?

A. That is right.

Mr. FARRENS. That is all.

Chairman TERRIL. Any further cross examination?

By Mr. JENNINGS:

Q. Mr. Jones, what is your understanding with respect
672 to the jurisdiction of the Interstate Commerce Commission over joint rates?

A. It is my understanding, according to the findings, that whenever there is a joint through filing of rates between motor carriers and water lines, for example, that it comes under the jurisdiction of the Interstate Commerce Commission. Are you referring to the operation between Portland and The Dalles, for example?

Q. Yes.

A. Well, that is considered interstate because it traverses state boundaries.

Q. Did you ever make any application to the Interstate Commerce Commission for the establishment of joint through rates?

A. No; not at the present time.

Q. One of the items you referred to on your Exhibit No. 6 is sugar. Is that a down-river movement or upward?

A. It is a two-way movement, Mr. Jennings.

Q. Has it been your experience that sugar is a commodity which will move over distances, for example, between San Francisco and The Dalles at truck rates?

A. I can't say that I know of any sugar that has moved that way in any substantial quantity, but there is a very definite adaptability in my opinion for sugar, because it can be accumulated. And that fits very definitely into the program of The Dalles, to have this tonnage built up and then distributed out of The Dalles on an upstream movement.

Q. Do I understand that your answer is that there isn't
674 any place for sugar moved that distance by truck?

A. Well, I wouldn't want to make it that it doesn't move that distance, Mr. Jennings, because I have seen sugar in Montana, for example, move the same distance that would be involved between San Francisco and The Dalles, for example. It is susceptible to long hauling, I think, because of the volume.

Q. Generally speaking, isn't sugar a commodity that requires a comparatively low rate?

A. Generally that is true.

Q. And, generally speaking, the sugar that moves between California and points in the Pacific Northwest moves at a water rate or a water compelled rail rate?

A. Yes. In large quantity that is true.

Mr. JENNINGS. That is all.

Chairman TERRIL. Any further questions of this witness, Mr. Berol?

Mr. BEROL. I have some redirect if the protestants have finished.

Chairman TERRIL. They have been around the table.

redirect examination by Mr. BEROL:

Q. Mr. Jones, in response to questions by Mr. Farrens I think you indicated the reason that Consolidated was not satisfactorily available to you as a connecting truck carrier was by reason of their affiliation with the Shafer Forwarding Company.

A. That is true.

675 Q. Outside of the Shafer Forwarding Company there are four independent water lines operating on the river in which you are interested, are there not?

A. That is true.

Q. I think you also indicated that with respect to Pierce the reason that service was not satisfactory was because until recently at least it operated only once a week?

A. That is my understanding.

Q. With respect to the Pacific Truck Express, did I understand you to say that until recently they operated truck service between Portland and The Dalles themselves?

A. That was a part of the Pacific Express operation.

Q. So long as they did not, that, of course, would put them in the same position with Consolidated insofar as cooperating with the four independent water lines, would it not?

A. That was my view; yes.

Q. Is it your position or have you been advised that the Pacific Truck Express has or will discontinue its service between Portland and The Dalles?

Mr. FARRENS. That question is objected to because there is no foundation laid for it.

Mr. BEROL. Well, counsel asked it on cross. He was the one that raised it.

Chairman TERRIL. What was the question, Mr. Reporter?

(The question referred to was read by the reporter as above recorded.)

676 Mr. FARRENS. That question was not opened by me.

Chairman TERRIL. There was discussion of the service of the Pacific Truck Express. The witness may answer.

The WITNESS. I will have to ask for the question again.

(The question referred to was again read by the reporter as above recorded.)

Mr. FARRENS. I ask for an exception to that ruling.

Chairman TERRIL. You may have it.

A. Yes. It is my understanding that the service has been disconnected insofar as the Pacific Truck Express is concerned.

By Mr. BEROL:

Q. Let me ask you, Mr. Jones: Do the rail lines serve the territory between Portland, on the one hand, and the territory around The Dalles in which you are interested?

A. They do to a certain degree, although it is not a satisfactory distribution.

Q. Now, since——

Mr. FARRENS (interrupting). Just a minute, if counsel please. That question directed to disconnection or discontinuance of the service of Portland and The Dalles by Pacific Truck Express was misunderstood by me. I thought that he referred to discontinuance of service between Portland and San Francisco. It is admitted that the service between Portland and The Dalles has been discontinued by Pacific Truck Express. So I withdraw my objection to that question.

Mr. BEROL. At least we have some indication, then, as
677 to what the present and proposed service of the Pacific Truck Express is even though it may be limited to The Dalles.

Mr. FARRENS. Well, at present Pacific Truck Express is a through daily operation between Portland and San Francisco.

Mr. BEROL. I might at this point ask counsel if he is going to be prepared during the course of these hearings prior to the conclusion to make a statement with respect to the south and northbound service of Pacific Truck Express, which statement I demanded at the prior hearing.

Mr. FARRENS. I probably will be in a position to say something on that subject. I might say presently that my understanding of the contract which this Commission approved in the acquisition case was one which provided that that service would be continued so long as the purchase price of the stock by Pacific Motor Trucking Company from The Journal Publishing Company stood uncompleted, and I believe that that was payable in installments which ran from three to five years.

Mr. BEROL. So long as counsel will have something to say about it later, I prefer to wait until that time.

I wonder if you will read my last question to the witness? I believe it has not been answered.

(The question and answer referred to were read by the reporter as above recorded.)

By Mr. BEROL:

Q. Since the rail lines or the Southern Pacific in particular has acquired the Pacific Truck Express, would you say that joint
678 rates and through service with the Pacific Truck Express would be subject to the same objections as those with the Consolidated Freightways?

A. I would say they would.

Q. You were asked some questions as to specifically what part of the commodities indicated on Exhibit No. 6 have moved in the past by truck to Portland or from Portland and by water between Portland and The Dalles. Would you say that the actual movements in the past are in any way indicative as to what will be the situation in the future if you will be in a position to enjoy through service and joint rates with this applicant?

A. Well, I would say that the——

Mr. ELLIS. (Interrupting.) You are not attempting to impeach the value of your exhibit?

Mr. BEROL. I am not attempting to impeach my own Exhibit. When I want to impeach an exhibit or a witness I will have counsel and the entire assemblage know about it.

A. (Continuing.) I would say that this is, in my opinion, the definite trend of the movement through the Bonneville Locks as recorded officially. And I might state, as I believe I previously

did, that the items listed here are only perhaps a half of the various commodities, articles that have been handled through The Dalles.

By Mr. BEROL:

Q. In other words, it is your expectation that if a joint
679 rate proposition and through service, such as is proposed by the applicant here, with these four independent lines were actually in effect, that was substantially against the movement of these commodities between California points and The Dalles?

A. I would say so.

Q. Now, you were asked by counsel if the boat and truck services both left Portland in the morning as to which would arrive in The Dalles earlier, and I think you indicated that truck lines would.

A. That is correct.

Q. As a matter of actual practice when do the boat lines leave Portland or The Dalles, if you know?

A. The regular service has been an evening service, and that is the principal method or schedule of the truck lines: To leave in the evening.

Q. In other words, insofar as the actual practice is concerned, both the boat lines and the truck lines in the regular schedules leave in the evening?

A. Yes.

Q. When they both leave in the evening when are deliveries made at The Dalles area after that?

A. The next morning as soon as business houses are opened.

Q. So to that extent the service of the boat lines and the water lines between Portland and The Dalles is comparable insofar as time is concerned?

680 A. That is true.

Mr. BEROL. That is all.

Re-cross-examination by Mr. IVERS:

Q. Mr. Jones, have you considered the effect of the relationship between the present existing through truck rates to The Dalles as against the through water rates on the transfer of this movement from water to truck?

A. You are referring, before I answer that question, Mr. Ivers, to the through truck service on San Francisco Bay origins, for example, to The Dalles?

Q. Yes.

A. Generally speaking, Mr. Ivers, I would say the through rates from San Francisco Bay, for example, to The Dalles are very limited as through rates.

Q. Well, do you know of any through truck rates that exist at the present time from San Francisco to The Dalles?

A. I wouldn't say that there are none, but I would say they are very limited to my knowledge.

Q. If the through 4th class rate from San Francisco to The Dalles is $1.09 and the through rate is approximately 40 cents, would you expect that there would be much transfer of lading presently moving by boat to truck at relative rate levels?

Mr. BEROL. May I have that question, please?

(The pending question was read by the reporter as above recorded.)

681 A. With your computations: no. But I know of no 40-cent rate that applies coastwise from San Francisco to The Dalles. In fact we have no such rates.

By Mr. IVERS:

Q. What is the through 4th class boat rate?

A. Boat rate?

Q. Yes; coastwise and river service from San Francisco to The Dalles.

A. The recent advance of July 15 in coastwise would make somewhat of a different figure, but I would say the 4th class rate would be considerably over 80 cents.

Q. Over how much?

A. 80 cents.

Q. 80 cents?

A. That isn't final. It is just my impression.

Q. Have you at any time recently checked the through boat rates?

A. I have looked at the proposed changes of July 15 between San Francisco and Portland, if that is what you refer to.

Q. Is that 80 cents that you referred to an l. c. l. or an any quantity rate or what is it?

A. I was thinking of the l. c. l.

Q. Is there a 20,000-pound 4th class rate or any quantity 4th class rate by boat?

A. We are speaking now between San Francisco and——

Q. (Interrupting.) San Francisco and The Dalles.

682 A. There are no published rates, you understand. Everything has to be a combination over Portland or coastwise rates just between San Francisco and Portland.

Q. Well then, is there any combination of rates that you know of on an any quantity or tonnage reduction basis?

Mr. BEROL. Do you have the tariffs available?

The WITNESS. No, I don't. I am trying to recall.

Mr. BEROL. Are you in a position to testify as to those rates?

Mr. IVERS. Just a minute. Let me ——

Mr. BEROL. (Interrupting.) I am going to object here.

Mr. IVERS. Well, do your objecting, but I am questioning this witness.

Chairman TERRIL. Can you answer the question?

The WITNESS. No; I cannot accurately. I don't think, if it isn't accurate, it shouldn't be in the record.

By Mr. IVERS:

Q. In connection with the conclusion to which you have come and to which you have testified here, that commodities which you indicated are moving by boat would move by truck, have you made any study of the relative rate levels presently existing or the rate levels which you might expect to receive from truck service?

A. My answer will have to be that I believe that the rates——

Q. (Interrupting.) Just a moment. I want an answer to that question. Have you made any such a study?

A. I have made a general survey.

683 Q. All right. Now, I want to know what the general survey consisted of and what facts you found with respect to the relative rate structures.

A. As you appreciate, Mr. Ivers, the matter has to be considered in a broad scope, any extended study of the particular situation as now obtained between Portland and The Dalles. I would say that it is my view that the competitive situation by a joint service and rates from California origins to The Dalles could become relatively competitive with the present coastwise level to Portland and thence beyond.

Q. Have you had any assurance from this applicant in your discussions with this applicant that it will initiate rates that are in any way comparable in volume with the boat rates?

A. There have been no discussions of that phase; no.

Q. Unless this applicant or some other truck lines would name rates that were substantially competitive with the water line rates, what benefit would you expect the Port of Dalles to secure?

A. Well, it is my view that a comparable competitive situation may be developed.

Q. You mean that the rate level may be made the same or approximately the same?

A. I think it can be made on a very closely competitive basis; yes.

Q. Do you believe that the truck lines can reduce their rates to substantially the level of the boat rates?

684 Mr. BEROL. The witness didn't say that. Furthermore——

Mr. IVERS (interrupting). Well I am asking him.

Mr. BEROL. Just a minute. I will object to it upon the ground that it is calling for the conclusion and opinion of the witness, and on the further ground that no proper foundation is laid. He is asking the witness generally as to whether he believes truck lines can reduce their rates to the level of those of the water lines.

Mr. IVERS. I am just testing a conclusion and opinion that he voluntarily stated.

Chairman TERRIL. The objection is overruled.

The witness may answer, if he can.

A. It is my view that a competitive situation can result.

By Mr. IVERS:

Q. Well, I want you to answer my question. Do you believe that the truck lines can reduce their rates to a level comparable to the water rates?

A. I think it is possible.

Q. You think they can?

A. Yes.

Q. And you predicate your opinion, as you stated in here, on that basis, do you not?

A. Largely, yes. I believe it can be a competitive situation.

Mr. IVERS. That is all.

Mr. BEROL. I take it that all protestants now for the second time have had an opportunity to examine before I continue with further redirect?

685 Mr. IVERS. Just a moment. I want to state that I only cross examined on what Mr. Berol brought up on redirect. He asked that question specifically, and that is the reason I brought it up.

Mr. FARRENS. I have one or two points to question on concerning Mr. Berol's redirect.

By Mr. FARRENS.

Q. Mr. Berol led you to say that Pacific Motor Trucking Company's acquisition of stock in the Pacific Truck Express put the service of Pacific Truck Express in the same category as that of the Consolidated Freightways. I wish you would explain that answer.

A. Well, it would have to be in this way, Mr. Farrens: That the situation as obtained prior to the acquisition and approval of July 1 would mean that Pacific Express would have direct service between California and The Dalles.

Q. That has no relation to the question which I asked you because counsel's question related to Pacific Motor Trucking Company's acquisition of the stock of Pacific Truck Express. You advised Mr. Berol that in your opinion that acquisition placed the service of the Pacific Truck Express in the same category as that

of Consolidated Freightways, which operates its own service from Portland to The Dalles.

Mr. BEROL. Give him the entire question, counsel. The question also included the proposition insofar as service available to the four independent waterways was concerned.

Mr. FARRENS. That's right.

686 A. That is my——

By Mr. FARRENS (interrupting):

Q. Will you explain that answer? Why do you say that the acquisition by Pacific Motor Trucking Company of Pacific Truck Express' capital stock would render the service of the Pacific Truck Express in the same category as that of Consolidated Freightways with relation to the interchange of freight and the naming of through freight rates with those four independent water lines operating between Portland and The Dalles?

A. It would be my thought that there would be a reluctance on behalf of the Pacific Express to concur with the four lines other than Shafer on the Columbia, perhaps predicated in a measure from my experience in negotiations whereby it might naturally be to the advantage of the Southern Pacific interest to have the shipment beyond by a rail line or a rail connection.

Q. What advantage do you conceive could result from Southern Pacific Company, which has no interest northeast or west of Portland, not to concur with any carrier willing to concur with it on through rates on through traffic?

A. Well, there is the repeated remarks that have been made throughout these proceedings as to the possibility of the Express Company giving a through service entirely divorced from the rail interest, and I would have the view that for that reason it

687 would be questionable that they would be agreeable to negotiating with these water carriers on a through rate service.

Q. I don't understand your answer at all. What reason do you offer for any unwillingness on the part of Pacific Truck Express to negotiate with those four independent water carriers for through rates?

A. Well, prior to July 1, Mr. Farrens, it naturally would be——

Q. (Interrupting.) I am talking about now. What reason could now exist or could have existed prior to July 1, 1940, for any unwillingness on the part of Pacific Truck Express to join with through rates with those four independent water carriers?

A. There would only be the observation that I have had from previous negotiations, that the rail lines would not be agreeable to putting in through rates and water rates on the Columbia.

Exam. KEPHART. When you say rail lines, do you mean the Pacific Motor Express as being affiliated with the Southern Pacific?

The WITNESS. That's right.

By Mr. FARRENS:

Q. But you haven't had any opportunity to test what that attitude would be?

A. No; I haven't.

Q. There has been a whole month passed since then. Are you pinning your whole hopes for the future on the granting by the Interstate Commerce Commission of this applicant's
688 application and refusing to recognize the possibilities that exist for existing carriers like Pacific Truck Express and Cascade Fast Freight and these others to join in through rates with these four independent water carriers?

A. No. I have already answered that point, I think.

Q. Have you made any efforts during this past month to contact any of those operators between Portland and San Francisco to see whether they would make joint through rates?

A. Not with direct management.

Mr. BEROL. Has anyone contacted you in the past month or any time in the past with respect to the prospect of through rates with through service——

Mr. JENNINGS (interrupting). May I ask a question before you go ahead?

Mr. BEROL. Go ahead.

By Mr. JENNINGS:

Q. Is the boat service from Portland to The Dalles a daily service?

A. I would answer this way: That the movement of the four lines indicated several trips a day are made, but they are not a regular schedule.

Q. There isn't any daily service?

A. No; not as such.

Q. So that insofar as that part of it is concerned, your statement that the boat service was comparable to the truck service was in error?

689 A. It's an error insofar as there isn't a scheduled operation every day; that is true.

Mr. JENNINGS. That is all.

Redirect examination by Mr. BEROL:

Q. Insofar as the four lines are concerned, between them is there a daily schedule?

A. There is boat clearings; yes.

Q. Every day?

A. There is three or four some days.

Q. At least one every day?

A. I would say that it would average that.

Q. Let me ask you with respect to the movement of traffic, you were asked if the trucks were likely to reduce their rates to the level of the water lines. With respect to that, calling your attention to the testimony in this proceeding regarding the movement of traffic by truck between the San Francisco Bay area and Portland, do you know as to whether the truck rates between the San Francisco Bay area and Portland are comparable to the water rates between the San Francisco Bay area and Portland?

A. There are certain rates that are very competitive and I consider comparable.

Q. Do you know as to whether or not there is any traffic moving between those points by truck where the truck rates are still higher than the water rates?

690 A. Yes; there is.

Q. And is it your expectation that even under higher truck rates there would be movement by truck and water between California points and The Dalles?

A. I believe there are certain commodities that would lend very definitely to that type of movement.

Mr. Berol. That is all.

Re-cross-examination by Mr. Ivers:

Q. What commodities?

A. Some of those I have enumerated.

Q. Which are they?

A. Roofing paper.

Q. How much higher rate per hundred pounds by truck will roofing paper take by water and still move?

A. I want to state that in my judgment the exact level of a rate does not necessarily determine whether it is feasible for movement. There are certain ancillary costs that are a factor in the handling of these different commodities.

Q. All right. You can include that in your answer. How much more per hundred pounds will roofing paper stand by truck than by water and still move, taking all your factors into consideration?

A. I would say a spread of not over ten cents.

Q. Ten cents a hundred pounds. All right. What is the next commodity?

691 A. Canned goods.

Q. All right. What would the spread be on canned goods?

A. That might be a maximum of eight cents.
Q. Eight cents on canned goods. What is the next?
A. Building material.
Q. All right. What would the spread be on building material?
A. That would be comparable to roofing.
Q. Ten cents, then?
A. I would say; yes.
Q. What is the next?
A. Insect spray.
Q. All right. What is the spread on that?
A. That might be not to exceed eight cents.
Mr. IVERS. That is sufficient for me.
Chairman TERRIL. Is that all from this witness?
Mr. BEROL. That is all I have from Mr. Jones.
Chairman TERRIL: You may be excused, Mr. Jones.
(Witness excused.)
Chairman TERRIL. We will recess for a few minutes.
(At this point a short recess was taken, after which proceedings were resumed as follows:)
Chairman TERRIL. We are ready, gentlemen.
Mr. BEROL. I will call Mr. Betts, please.

JAMES SHANNON BETTS was sworn and testified as follows:

692 Direct examination by Mr. BEROL:

Q. Will you state your full name, Mr. Betts?
A. James Shannon Betts.
Q. Where do you reside?
A. 470 Vassar Avenue in Berkeley.
Q. And what is your business or occupation?
A. Betts Spring Company here in the City.
Q. And you are a member of that company?
A. Yes.
Q. How long have you been so occupied?
A. Oh, ten years.
Q. Are you familiar in a general way with the nature of the application pending here?
A. Yes.
Q. And under that the Oregon-Nevada-California Fast Freight is proposing a through service beyond its present terminal, Medford, to Portland, Oregon, on regular routes; and beyond Portland to Vancouver, Camas, and Washougal, Washington, as an on-call service?
A. Yes.

Q. And also service from Lakeview, making deliveries in Lakeview the following afternoon; and the Coos Bay points, making deliveries there the following afternoon. Do you have occasion in the conduct of your business to make shipments to any of these points?

693 A. Yes; we do.

Q. And to which ones particularly?

A. Oh, Lakeview and Coos Bay, Portland, Klamath Falls and Seattle and Vancouver.

Q. Do you ship to any intermediate points between Medford and Portland?

A. Yes; we do.

Q. Such as Grants Pass?

A. Yes.

Q. Salem?

A. Yes.

Q. Eugene?

A. Yes.

Q. Roseburg?

A. Yes.

Q. Albany?

A. I don't believe we ship to Albany.

Q. With respect to shipments to Lakeview, how frequently do you have such shipments?

A. Well, generally they'd average two or three times a month.

Q. With respect to your movements generally, do you also ship by rail and water?

A. Yes; we do.

Q. Not to Lakeview, of course, but to these other points as far as water is concerned?

694 A. Yes.

Q. What determines as to which of your shipments shall move by rail or water or truck?

A. Well, 90 percent of the emergency shipments are made by truck.

Q. And as a rule the shipments that are not emergency move either by rail or water?

A. Yes; that's right.

Q. Is that because the rail and water rates are cheaper than the truck rates?

A. That's right.

Q. Coming back to the shipments to Lakeview, I think you indicated they would be one, two or three a month?

A. In a general way, yes.

Q. What generally is the weight of your shipments?

A. Oh, by truck you mean?

Q. Yes.

A. They'd be from, oh, a hundred pounds to a thousanad; all depending upon the size of the material, naturally, being shipped.

Q. With respect to the shipments that you ship by truck, is time in transit of any consequence to you?

A. Yes; it means a great deal.

Q. Are you in a position to tell me as to the time in transit of shipments between the San Francisco Bay area and Lake-

695 view at the present time?

A. My understanding of it is that it is three days, I believe, or third morning delivery or third afternoon.

Q. Would a shipment from the San Francisco Bay area destined to Lakeview arriving there the following afternoon be of any advantage to you in the conduct of your business?

A. It certainly would.

Q. Insofar as you know, is there any such service available to you at the present time?

A. Not that I know of.

Q. Respecting your shipments from the San Francisco Bay area to the points north of Medford, Oregon, are you familiar, generally, with the time in transit at the present time?

A. Well, I think at the present time there is a second morning delivery to those points.

Q. Assuming that there would be a next day delivery as to points north of Medford as far north as Eugene, Oregon, would your shipments to the points between Medford and Eugene be in any way helped by that kind of a service?

A. Of course; yes.

Q. With respect to your shipments to Seattle, do you have occasion to have movements to Seattle frequently?

A. Pardon me; what is that?

Q. Do you have occasion to make shipments to Seattle frequently?

A. Yes.

696 Q. How frequently would your shipments to Seattle move on the average?

A. Oh, two or three times a week by truck.

Q. Assuming that the applicant under the proposed service will be in a position to give you second morning delivery into Seattle, would that be of any assistance to you?

A. Yes; it would.

Q. With respect to the Coos Bay area, approximately how frequently do you make truck shipments into that area?

A. Oh, the truck shipments to Coos Bay are really not very often. I would say that once a month would be about an average on that.

Q. And when they do move are they in the same position as the others, namely, that they are emergency shipments?

A. Yes; they are.

Q. Would a next afternoon delivery into the Coos Bay area be of assistance to you on those shipments?

A. Yes; it would. And if there was a service like that available I think we would be in a position to get more business from those points.

Q. And is it your viewpoint that you would be enabled to increase your business in the Marshfield, Coquille area if you had that kind of a service available?

A. Yes, sir.

Q. Tell me, have you had any experience with the Oregon-
697 Nevada-California Fast Freight?

A. Yes; we have.

Q. And over how long a period of time?

A. Well, I would say fourteen, fifteen years.

Q. And has that been over the points which they serve at the present time?

A. Yes.

Q. Based upon your experience with the company would you say that they are a reliable, dependable transportation agency?

A. In every way we have found them to be such.

Q. Have you had any occasion to ship to points north by the Pierce Auto Freight Lines?

A. Not to my knowledge.

Q. Have they ever solicited your business?

A. I don't believe so.

Q. If the service, such as the applicant proposes here, were authorized by the Commission and instituted would you use it?

A. Yes; we would.

Q. And is it your view that it would be helpful to you in the conduct of your business?

A. Yes.

Mr. BEROL. That is all. You may take the witness.

Chairman TERRIL. Mr. Betts, what is the commodity you ship? I missed it.

The WITNESS. Springs; automobile and truck springs;
698 tractor springs, and then all kinds of coil springs.

Chairman TERRIL. What would you say would be the monthly volume of your commodity that moves northbound from California to Oregon points that moves by truck on an average?

The WITNESS. Oh, I would say it would be several tons a month.

Chairman TERRIL. Well, as much as five tons or ten?

The WITNESS. No. I would say, either one or two tons a month.

Exam. KEPHART. In truckload or less than truckload quantities?

The WITNESS. In truckloads?

Exam. KEPHART. Do any of your shipments move in truckload quantities?

The WITNESS. No; they don't.

Exam. KEPHART. What proportion of your shipments are emergency shipments? One out of five or one out of ten?

The WITNESS. I would say one out of five or ten.

Exam. KEPHART. What would your rail or water movement north be during a month's time?

The WITNESS. Well, of course, it is pretty hard to give those figures. I would say it would run well over, oh, around six, seven ton a month.

Exam. KEPHART. Around six or seven tons a month?

The WITNESS. Yes.

699 Chairman TERRIL. I understand that you use motor only for these emergency shipments. Is that correct?

The WITNESS. Unless our customer in the north specifies truck or something like that.

Chairman TERRIL. But, ordinarily speaking, that is true?

The WITNESS. Yes.

Chairman TERRIL. If this service were initiated would you make any greater use of motor transportation than you are using at the present time?

The WITNESS. Oh, I think we would be in a better position to obtain more business from the customers in the northern area than we are able to get right now, because we would be able to give better service to those points.

Chairman TERRIL. Cross-examine.

Cross-examination by Mr. ROBERTS:

Q. Mr. Betts, as I understand it, you utilize rail and water except when you have emergency shipments?

A. Yes.

Q. Practically exclusively?

A. Yes.

Q. Is that the situation?

A. Well, as I say, unless our customer routed truck or something like that, why, we generally make the shipments rail or water.

700 Q. But as a general rule you do utilize the rail and water for your shipments except in emergency cases?

A. That's right.

Q. And 90 percent of these emergency shipments are made by truck?

A. That's right.

Q. Relative to the proportion of your shipments, most of them go to Portland or between Medford and Portland?

A. Well, they'd go, I think, nearly all the intermediate points.

Q. Nearly all the intermediate points?

A. Yes.

Q. How does it compare? I am just wondering as to that situation whether or not your shipments preponderate into the intermediate points between Medford and Portland or whether Portland and beyond.

A. Well, the greater majority of them are directly into Portland and Seattle.

Q. And Seattle?

A. And Seattle and Vancouver; yes.

Q. What would you say would be the proportion as to your shipments of one or two tons per month, as I understood, which you do ship by truck? What would be the proportion of shipments that would go into Portland and beyond and those which go between Medford and Portland, intermediate points?

701 A. I don't know as though I would be able to give you that percentage because there is no definite amount being shipped per month.

Q. Do you utilize the facilities of the Oregon-Nevada-California Fast Freight exclusively?

A. Not exclusively; no.

Q. What other carriers do you utilize?

A. Oh, we ship Pacific Truck and—are you referring to truck lines or all of them?

Q. Yes; I am referring to truck lines.

A. Pacific Truck, then I believe we have used Consolidated.

Q. Where do you use Consolidated into Oregon?

A. Oh, we have made shipments into Portland.

Q. Portland?

A. Yes.

Q. Well, you understood that they were taken by Oregon-Nevada-California Fast Freight and then interchanged with Consolidated?

A. Yes.

Q. Have you found those facilities satisfactory?

A. Well, they have been entirely satisfactory; yes. But a shipment of coil springs—as I understand it, the shipments are transferred at Medford, I believe, isn't it?

Q. Yes.

A. And there is always the occasion that the bundles will
702 become broken when they are being transferred from one truck to another, and I really don't know as that has ever come up yet.

Q. In other words, you have found these facilities which have been afforded and accorded you entirely satisfactory for your purposes?

A. Yes; that's right.

Q. Is that correct.

A. Yes.

Q. And if that interchange could be made more expeditious that would be more satisfactory for your needs and requirements in the future?

A. Well, naturally we would like to have the material stay on one truck all the way up and eliminate any possible chance of breakage or loss due to that additional handling.

Q. You don't know whether or not that facility would be afforded even though the applicant receives this certificate, do you?

A. No; I don't.

Mr. BEROL. In order to be fair with the witness, the testimony is that it certainly will.

Mr. ROBERTS. As far as Portland is concerned.

Mr. BEROL. Right.

Mr. ROBERTS. I am talking about intermediate points.

Mr. BEROL. And the intermediate points between San Francisco and Portland.

703 By Mr. ROBERTS:

Q. Have you utilized the Pierce Auto Freight?

A. No; we haven't.

Q. You know they are in existence, do you?

A. Yes.

Q. And if it were demonstrated that it would offer the same reliable service as you have been accustomed to, would that meet your needs and requirements?

A. Well, as I understand it, Pierce isn't operating a daily service out of San Francisco.

Q. Well, it is now.

A. Oh, is it?

Q. Yes. Would that meet your requirements? A through service of that character?

A. Well, no doubt it would if they would continue that service. But, as I say, we have dealt with Oregon-Cal. and found they very reliable and have rushed our emergency shipments or given them just a little bit of preference. In other words, if we

got a tractor spring that some logger is waiting for, why, they have given it all the service that was available to them.

Q. In other words, the present service which you receive from them is entirely satisfactory for your purposes?

A. Yes, and it could be made considerably better.

Mr. ROBERTS. I think that is all.

Exam. KEPHART. Do you sell coil springs or lead springs
704 or both?

The WITNESS. Both.

Exam. KEPHART. Do you sell any to the Consolidated Freightways?

The WITNESS. We do some work for them; yes.

Exam. KEPHART. Do you sell any to the applicant?

The WITNESS. Yes.

Exam. KEPHART. Do you sell other motor carriers like the Pierce Company?

The WITNESS. We don't do any for Pierce.

By Mr. FARRENS:

Q. Mr. Betts, do you use express service between San Francisco and Lakeview? Railway Express?

A. Do we use express service?

Q. Railway express.

A. Not to my knowledge. I don't know for certain as to whether we have or not. If we have, it hasn't been on any large shipment; maybe just a package of small springs or something.

Q. Then the emergency shipments between San Francisco and Lakeview have not yet been of a sufficient emergency character as to require you to use the faster service of the Express Company?

A. Well, in a way, if we did get a better delivery into Lakeview and Coos Bay, why, we would be in a better position to get more business out of that area.

Q. I assume the reason you have not been using Railway
705 Express service between San Francisco and Lakeview is due to some differential in the rate?

A. Yes.

Q. The truck rate being lower. Now, I assume the emergencies which have occasioned you to ship by truck using the third morning delivery into Lakeview have not been sufficiently great to cause you to pay the difference between the truck rate and the Railway Express rate in order to get the more expeditious service of the Railway Express Company?

A. Well, that is true. And then with reference to one particular article we manufacture, the tractor springs, Caterpillar Tractor are naturally in competition with us in regard to those

springs, and their branches throughout the entire three States stock those springs, and if we are not able to give practically immediate service in the case of a breakdown, why then, that business does go to Caterpillar Tractor.

Q. But that emergency situation hasn't caused you to pay the higher rate and take the faster service between San Francisco and Lakeview?

A. Not that I know of; no.

Q. Now, Mr. Betts, if I understand the situation rightly, the Pierce Auto Freight Lines daily service and the proposed service of this applicant, both being through service San Francisco to Portland, either of them would be able to take care of your
706 needs, but because of your past connection with the applicant in this case you, as a matter of personal preference, would be inclined to give this applicant the business if it were allowed to operate through?

A. That is true.

Mr. FARRENS. That it all.

By Mr. IVERS:

Q. Have you made any shipments via Los Angeles-Seattle Motor Express?

A. No; we haven't.

Q. What services are you using into Seattle at the present time?

A. Pardon?

Q. What service are you using into Seattle at the present time for your truck shipments?

A. I believe some of it has been taken by both Consolidated and Pacific Truck, as well as—yes; those are the two.

Q. Pacific Truck Express?

A. Pacific Trucking; yes.

Q. Now, on a shipment to Seattle at the present time is the service of Oregon-Nevada-California Fast Freight plus the interchange with Consolidated satisfactory?

A. Yes; it is satisfactory. As I say, the only thing is that between the exchange of shipments, why, there might be considerable delay caused, or an important shipment might be left there if the truck was full and our shipment would lay over at Medford for an additional day.

Q. Would it make any difference to you if that inter-
707 change were made at Medford or Portland?

A. Well, it would to intermediate points to Portland.

Q. I am talking about the Seattle shipments.

A. Oh, the Seattle shipments?

Q. Yes.

A. Well, I guess it would be practically the same condition as we have right now.

Q. So far as the Seattle shipments are concerned the extension of this applicant's service into Portland wouldn't change conditions at all, would it?

A. Not unless they maintained a through service all the way into Seattle.

Q. But you understand that their application terminates at Vancouver, Washington?

A. Yes.

Q. Now then, in view of that fact, as far as the Seattle shipments are concerned, the extension of this operation would make no difference to you at all, would it?

A. Well, not to shipments, say, from Vancouver to Seattle.

Q. It wouldn't for any shipment from Portland to Seattle, beyond Portland? You understand that the service to Vancouver is merely an on-call service?

A. Yes.

Q. So that any shipment bound for any point north of Portland to Seattle would make no difference whether the
708 applicant operated as at present or whether this extension were granted? That is correct, is it not?

A. I don't quite get that now.

Q. As to any shipment destined to a point north of Portland——

A. (Interrupting.) Yes.

Q. (Continuing.) It would make no difference to you whether the interchange were at Medford or at Portland, would it?

A. No.

Q. The service would be exactly the same?

A. Yes.

Q. Are you familiar with the fact that the Los Angeles-Seattle Motor Express is at the present time offering second morning delivery in Seattle?

A. No; I am not.

Q. If they are, would that serve your needs on a through movement?

A. Well, it would. But, as I say, we have had dealings with Oregon-Cal. and they have always given us excellent service.

Q. So it would serve your needs except for your personal preference?

A. Yes.

Mr. IVERS. That is all.

Chairman TERRIL. Mr. Jennings, do you have any questions?

Mr. JENNINGS. No.

709 Redirect examination by Mr. BEROL:

Q. Has the Los Angeles-Seattle Motor Express ever solicited your business?

A. No; they haven't.

Q. With respect to Seattle and a shipment of your commodities to Seattle, is there any difference to you whether you have an interchange of your lading at two places or one?

A. Yes; there is.

Q. And which would you prefer?

A. Well, to have the interchange made only once, naturally.

Q. With respect to the time in transit, in view of the fact that the applicant proposes to cut off a day in the time in transit under its present time in transit, is that a matter of any consequence to you?

A. Yes; it is.

Q. What are your views in regard to that?

A. Well, it would naturally put us in a better position to give our customers better service, which is what we are always trying to do.

Q. Respecting the questions that were asked you by Mr. Farrens as to the availability of the Railway Express service to Lakeview, I think you indicated, did you not, that the Railway Express rates presented a higher differential than the normal freight rates?

A. Yes; they do.

710 Q. And can you afford to pay that higher differential and still compete with the Caterpillar people on the delivery of your springs?

A. No; we can't.

Mr. BEROL. I think that is all.

Re-cross-examination by Mr. FARRENS:

Q. Does the Caterpillar Company have a branch warehouse at Lakeview?

A. No; I don't believe they do. But it does at Portland and Klamath Falls. They have them scattered pretty thoroughly throughout that entire country.

Q. The Caterpillar Company would have to make the emergency shipment to Lakeview the same as you would?

A. Yes; they would.

Mr. BEROL. I think that is all.

The WITNESS. All right.

(Witness excused.)

Mr. BEROL. Call Mr. Gunderson, please.

GLEN R. GUNDERSON was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name, please?

A. Glen R. Gunderson.

Q. Where do you reside?

A. South San Francisco.

711 Q. What is your occupation?

A. Salesman.

Q. With what company?

A. Charles W. Carter Company.

Exam. KEPHART. Carter?

The WITNESS. That's right.

Exam. KEPHART. C-a-r-t-e-r?

The WITNESS. That's right.

By Mr. BEROL:

Q. What is the nature of the business of the Charles W. Carter Company?

A. Truck and industrial parts and units.

Q. Are you familiar in a general way with the nature of the application pending here?

A. In a general way; yes.

Q. And you understand that the applicant is offering a service between San Francisco Bay points and Lakeview making deliveries at Lakeview the following afternoon?

A. That's right.

Q. Also between the San Francisco Bay area and Sacramento and the Coos Bay area, making deliveries at the Coos Bay area for Marshfield, and so forth, the following afternoon?

A. Yes, sir.

Q. Also to extend its service north of Medford, Oregon to Portland, Oregon, on a daily schedule and into Vancouver, Camas, Washington on an on-call schedule?

712 A. Yes.

Q. Do you have occasion to make any shipments to Lakeview, Oregon?

A. Yes. We ship all through that area up there.

Q. How frequently do you have occasion to make shipments to Lakeview?

A. Well, it varies; sometimes probably a couple, three shipments a day, and it will probably be a week or two weeks with no shipments.

Q. And what do those shipments consist of?

A. Well, it is primarily truck parts which are of emergency nature. When they break down, why, they have to have parts right now.

Q. Now, is the matter of time on transit on the delivery of such commodities of any importance to your company?

A. Very much so.

Q. Are you able to get a service from the San Francisco Bay area to Lakeview with delivery the following afternoon at the present time?

A. Not to my knowledge.

Q. Are you able to get deliveries from San Francisco to the Coos Bay area the following afternoon at the present time?

A. I don't think so. I am not positive on that, however.

Q. Now, would such a service to either Lakeview or Coos Bay area be of any importance to you?

713 A. Any of those intermediate points would be very much of important because the nature of our business is speed. We have to get it there in a hurry because it is all emergency parts.

Q. How frequently do you have occasion to ship to the Coos Bay area?

A. Well, that varies the same as to the other points.

Q. With respect to your shipments between Medford and Portland, do you ship to such intermediate points as Roseburg, Salem, Eugene?

A. Yes, sir.

Q. And, likewise, does the frequency of such shipments vary?

A. That's right.

Q. Are you able to state as to whether or not between all of these points mentioned here you have some shipments moving daily?

A. Yes, sir. We have some every day.

Q. What would be the average weight of your shipments or the average size, from the smallest to the greatest weights that move by truck?

A. Oh, it would vary from probably a hundred pounds to twelve, fifteen hundred.

Q. Have you had any experience with the applicant here?

A. With who?

Q. With the Oregon-Nevada-California Fast Freight.

174 A. Yes, sir; we have.

Q. Have you used their transportation service in the past insofar as it applies to points they now serve?

A. Yes, sir.

Q. Have you found that service to be satisfactory?

A. It has been very good to points that they are shipping to direct.

Q. Based upon your experience with the company would you say that it is a reliable, dependable transportation agency?

A. Yes, sir.

Q. Are you able to give me any estimate of the total tonnage that you ship from the San Francisco Bay area to the points in Oregon and Washington, say, on a weekly or a monthly average?

A. No. I wouldn't even estimate that because it would be merely a guess, anything that I would say on that, because it varies so much.

Q. Would it run at least several tons a month, would you say?

A. Well, some months it would.

Q. Some months it would?

A. Yes. It would run to several tons.

Q. Do you have any shipments to or from Seattle?

A. Yes; lots of them.

Q. Are those to Seattle or from Seattle?

A. Both ways.

715 Q. Both ways?

A. Yes, sir.

Q. What do those shipments consist of?

A. Automotive parts.

Q. Bearing in mind that the applicant will not move as a regular factor his own equipment between the San Francisco Bay area and Seattle but would usually interchange at Portland, nevertheless providing a second morning delivery to Seattle or second morning delivery from Seattle to the San Francisco Bay area, would that kind of service be helpful to you?

A. Very much.

Q. Do you sell any commodities to the applicant?

A. Yes.

Q. Is it based upon your selling experience to the applicant or your need for the service that you are here testifying?

A. Well, it is the need for the service more than anything else because our sales in the other parts are much greater than the sales to the applicant, and we are naturally interested in the larger sales.

Exam. KEPHART. Do you sell any to Consolidated Freightways?

The WITNESS. Consolidated Freightways? Yes, I think we do.

Exam. KEPHART. Are any of your shipments in truckload quantities?

716 The WITNESS. No. They wouldn't be full truckloads.

By Mr. BEROL:

Q. Does your company have a traffic manager?

A. No. We just have our shipping clerk.

Q. What is his name?

A. Johnny Hamilton.

Q. Is he in the city at the present time?

A. Yes.

Q. I thought there was a question of some other individual testifying who was more familiar with the exact movements than you, but who was away on a vacation. Is that so?

A. That's right; Mr. Rodgers, the manager, who is familiar with all those shipments. He is away on vacation at the present time.

Q. And is it in view of his absence that you are here testifying instead of Mr. Rogers?

A. That's right.

Mr. BEROL. I think that is all.

Chairman TERRIL. Cross-examine, gentlemen.

Cross-examination by Mr. ROBERTS:

Q. Mr. Gunderson, do you have very much shipment between Medford and Portland?

A. Quite a bit.

Q. Quite a bit?

A. Yes.

Q. And you utilize the services of the Oregon-Nevada-
717 California Fast Freight, or you have utilized those services in the past?

A. Yes.

Q. And the Consolidated?

A. Yes, sir.

Q. You understand there is an interchange there between the Oregon-Nevada-California Fast Freight and Consolidated at Medford?

A. There is a change there. I don't know who it is between. There is a change at Medford.

Q. You understand there is a change at Medford?

A. That's right.

Q. And you have found the services which you have received in the past entirely satisfactory?

A. Well, the experience we have had in the past on several occasions where we have made a shipment or receiving a shipment from up there is supposed to be here, scheduled to be here at a certain time and it didn't arrive. And we have checked up and found that there has been a delay at Medford.

Q. There has been a delay at Medford?

A. That's right.

Q. Have you utilized the services of any other carriers between San Francisco and those points?

A. Not to my knowledge.

Q. You have just used this——

A. (Interrupting.) However, I won't say that we
718 haven't, because I am not familiar with a whole lot. The ones that we do ship through we use Oregon-Cal.

Q. You don't know of any others that afford service to those shippers?

A. No; I don't.

Q. You don't know anything at all about whether or not their services which they might render would be entirely satisfactory for your services or not?

A. Well, they might be satisfactory. However, to my knowledge, everything we have up in that neighborhood is shipped by Oregon-Cal. Freight, and we have found their services very good and we haven't seen any need for changing. And whether these other companies have even solicited our business or not, I don't know.

Q. In other words, there is no need to change as far as you are concerned at the present time?

A. As far as changing freight lines are concerned, the main thing that we want is if we can speed up our delivery service here and delivery service north, that is a big factor.

Q. You mean the time consumed in shipment?

A. The time consumed. That is a very big factor. As I said before, we have nearly everything emergency shipments. When something breaks down they want parts now.

Q. If that time element could be avoided by reason of interchange of a shipment at Medford, then it would meet your
719 requirements; is that correct?

A. That is correct. It would help an awful lot.

Mr. ROBERTS. That is all.

By Mr. FARRENS:

Q. As I understand your position, Mr. Gunderson, it is this: That up to the present time you have seen fit to patronize the joint service of the Oregon-California Fast Freight and its connecting carrier north of Medford rather than to patronize the existing through services of other truck lines operating between San Francisco on the south of Portland and points north of Portland?

A. I don't know if I got that perfectly clearly or not.

Mr. FARRENS. Will you read that question back to him?

(The question referred to was read by the reporter as above recorded.)

A. That's right.

By Mr. FARRENS:

Q. Has that been on the basis of personal preference for the Oregon-Nevada-California Fast Freight?

A. Yes, sir; that's right.

Mr. FARRENS. That is all.

Chairman TERRIL. Any further cross-examination of this witness?

Mr. IVERS. Yes.

By Mr. IVERS:

Q. You testified that you checked up and found that certain shipments have been delayed at Medford. What do you mean by "check up"?

720 A. Well, naturally, when a shipment doesn't come in we refer it to the Oreg-Cal. Freight.

Q. You mean you call them up on the phone?

A. Call them up or sometimes we even get down there to pick up our goods that should be there and find that they are not there.

Q. And they tell you that it is a delay at Medford?

A. They don't tell us at that time. They check up and find out whether it is, and sometimes in checking up and tracing it back it takes considerable time.

Q. But in the end you assume from what they tell you that it was delayed at Medford?

A. That's right. That has happened on a number of occasions.

Mr. IVERS. That is all.

Mr. JENNINGS. No questions.

Chairman TERRIL. Anything further, Mr. Berol?

Mr. BEROL. No, that seems to be all.

Chairman TERRILL. That is all, Mr. Gunderson. Thank you very much.

(Witness excused.)

Mr. BEROL. I will be ready to call the next witness in just a minute.

Mr. BIGELOW. At this time, Mr. Chairman, with your permission may I enter my appearance?

Chairman TERRILL. Have you made your written appearance?

721 Mr. BIGELOW. I shall make one. My name is Fred N. Bigelow, manager of the Pacific Southwest Railroad Association. The address is 400 Sansome Street, San Francisco. I am appearing as an officer of the Association, which includes all of the trunk line rail carriers in the Pacific southwest states extending into the northern states along the Coast and includes the Railway Express Agency. It also includes the short line railroads operating in that same territory west of the Rocky Mountains.

Mr. BEROL. I take it, Mr. Bigelow, you are appearing as an intervenor in support of the applicant?

Exam. KEPHART. What is your position?

Mr. BIGELOW. My position is that of protestant. I think we have a formal protest on file, Mr. Chairman.

Mr. CALLAWAY. My name is Hulen C. Callaway.

Chairman TERRIL. What is your address?

Mr. CALLAWAY. 217 West 7th, Los Angeles, California. I am appearing associated with Mr. Jennings for the protestant Cascade, Inc.

Chairman TERRIL. Are you an attorney?

Mr. CALLAWAY. Yes; and admitted to practice before the Interstate Commerce Commission.

Chairman TERRIL. Will you enter your formal appearance, also Mr. Callaway?

Mr. CALLAWAY. Yes.

722 Mr. BEROL. I will call Miss Wunderlich.

MARY WUNDERLICH was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name for the record, please?
A. Mary Wunderlich.
Q. And that is W-u-n-d-e-r-l-i-c-k?
A. c-h; yes.
Q. Where do you reside?
A. San Francisco.
Q. What is your occupation?
A. Traffic manager.
Q. For what company?
A. Barton Sales Corporation.
Q. How long have you been so occupied?
A. Three years.
Q. Where is the Barton Sales Company located?
A. 101 Harrison Street.
Q. In San Francisco?
A. Yes, sir.
Q. Now, are you generally familiar with the nature of the application pending here?
A. Yes, I am.

723 Q. And do you have occasion to make shipments to points in Oregon located on Highway 99 north of Medford to and including Portland?

A. Yes; I do.
Q. Particularly which of those points?
A. Eugene, Portland, Salem.
Q. Roseburg?
A. Roseburg.

Q. Albany?
A. Klamath Falls, Albany.
Q. Do you have occasion to make shipments to or from Seattle?
A. Yes; I do.
Q. Do you have occasion to make shipments to Lakeview?
A. Occasionally.
Q. How about the Coos Bay area, particularly Coquille, Marshfield?
A. Occasionally.
Q. What commodity does your company deal in?
A. Shoe dressing.
Q. Shoe dressings?
A. Yes.
Q. Can you give me an idea as to how frequently you ship from San Francisco Bay points to these points that I have mentioned?
A. Well, we make at least one shipment a day—well then, it depends on the salesmen, whether they are working in that territory or not, how many shipments go forward each day.

724 Q. What would be the average size of your shipments?
A. Minimum shipments a hundred pounds.
Q. And how far do the larger shipments go?
A. Well, they go eight, nine hundred pounds.
Q. So they will vary from a hundred to eight or nine hundred pounds per shipment?
A. Yes; and sometimes more than that.
Q. When you say "sometime more than that," how much more?
A. Well, sometimes they go up to nineteen hundred and two thousand pounds.
Q. Are you in a position to give me any idea or estimate as to what your total tonnage per month would be on the average?
A. Well——
Chairman TERRIL. Moving north, Mr. Berol?
Mr. BEROL. Moving north-bound.
A. (Continuing.) Well, it would be several tons a month.

By Mr. BEROL:

Q. It would be several tons a month?
A. Yes; but that would depend on how far north some of those shipments were going.
Q. To and including all points in Oregon and Washington?
A. Yes. It would be several tons a month.
Q. Do you have any occasion to receive any shipments moving south-bound?
A. Very seldom, unless it is a return shipment.

Q. I see. With respect to your shipments, is time in
724-A transit of any importance to you?

A. Time?

Q. Yes.

A. Well, as a rule our shipments are rush.

Q. Why is that?

A. Well, people don't order shoe polish until they are out of it and then they want it fast.

Q. Are you familiar with the time in transit between San Francisco Bay points and the Coos Bay area at the present time?

A. I believe it is two or three days. I am not sure.

Q. Have you been advised that the applicant proposes a next afternoon service to both Coos Bay and to Lakeview?

A. Yes.

Q. Are you able to get that kind of a service to either of those points at the present time?

A. No.

Q. Would that kind of a service be of any assistance to you in the conduct of your business?

A. Yes.

Q. With respect to points north of Medford to and including Eugene, do you understand that the applicant likewise offers a next day service?

A. Yes.

Q. And would that be helpful to you in the conduct of your business?

725 A. Yes.

Q. And have you been advised that insofar as Seattle is concerned that the service proposed is a second morning service?

A. Yes.

Q. And is that a speedier service than is available to you now?

A. Yes.

Q. Incidentally, what transportation facilities do you use at the present time into that area?

A. Oregon-Cal. and Southern Pacific.

Q. With respect to your use of the Oregon-Nevada-California Fast Freight, do you understand they interchange with Consolidated Freightways at Medford at the present time?

A. Yes; I do.

Q. Have you had an experiences occasioned by reason of that delay that caused you any inconvenience or difficulty?

A. Well, occasionally because it slows up service, and if we have a shipment that is undelivered you get notices from Consolidated Freightways and from Oregon-Cal. Freight about it. You never know which one to get in direct contact with.

Q. And has that caused you confusion in your dealings with the two companies?

A. Yes; it has.

Q. Is it your preference that you be placed in a position where you can deal only with one company?

A. Yes.

726 Q. Based upon your experience with the Oregon-Nevada-California Fast Freight, has that been a satisfactory transportation service other than these difficulties that you have mentioned?

A. Yes; it has.

Q. Do you make shipments over their line to Medford or to Klamath Falls or to Reno?

A. Yes. Not to Reno.

Q. Not to Reno?

A. Yes.

Q. To Medford and Klamath Falls?

A. Yes.

Q. Insofar as your shipments to Medford and Klamath Falls are concerned have you had any such difficulties as you have mentioned?

A. No.

Q. How long have you had transportation experience with the Oregon-Nevada-California Fast Freight?

A. Oh, it's two years; maybe longer.

Q. And based upon your experience with that company, would you say they are a reliable, dependable transportation agency?

A. Yes; I would.

Q. If the service that they propose here is authorized by the Commission and instituted will you use that service?

A. Yes.

Q. And is it your view that it will be of any assistance to

727 you in the conduct of your business?

A. Yes.

Q. Based upon the needs of your business, is it your desire that that service be made available to you?

A. Yes.

Mr. BEROL. I think that is all.

Chairman TERRIL. Miss Wunderlich, of these several tons of freight that move into Oregon and Washington points each month, does that all move by motor or is that a portion of it? Does a portion of it move by freight?

The WITNESS. A portion of it is by rail.

Chairman TERRIL. A portion of it is by rail?

The WITNESS. Yes.

Chairman TERRIL. What would you say would be the division between motor and rail of your shipments?

The WITNESS. After I get to two hundred, two hundred and fifty pounds everything goes rail.

Mr. BEROL. Will you speak just a little louder?

Chairman TERRIL. She says about two hundred, two hundred and fifty-pound shipments or over move by rail, Mr. Berol.

On a percentage basis, during the month how much would you say moves by rail and how much by motor?

The WITNESS. Well, about 60 percent goes motor, 40 percent rail.

Chairman TERRIL. None of this is truckload quantity?

728 The WITNESS. No.

Chairman TERRIL. Cross-examine.

Cross-examination by Mr. ELLIS:

Q. Why do shipments over 250 pounds go by rail instead of truck?

A. Well, because it weights heavier and it is cheaper to deliver our shipments down to the depot and send it straight rail than it is to send it pickup and delivery.

Q. Has your service been approximately as fast by rail as it has been by truck to those larger cities?

A. Yes; approximately.

Q. And you have had no particular complaint about the speed of the rail service?

A. No.

Q. How long have you been traffic manager of the company that now employs you?

A. A year.

Q. One year?

A. One year.

Q. To whom are most of your shipments made?

A. They are made direct to the retail house.

Q. The retail stores in the various communities?

A. Yes.

Q. In connection with the shipments you say you had inquiries on from the Oregon-Nevada-California Fast Freight or

729 from Consolidated, will you make yourself a little more clear as to the nature of that inquiry?

A. "Inquiry?"

Q. Some difficulty you experienced in connection with delivery of merchandise.

A. Occasionally we will make a drop shipment to Portland to a retail merchant, and when that order arrives there the man for some reason or other will refuse delivery of it. Then I will get a notice from Consolidated Freightways that the delivery is on hand undelivered. Then I will get another notice from the Oregon-California Fast Freight that the merchandise is there undelivered and how to dispose of it, and you are writing to two carriers telling them what to do with it.

Q. In other words, you get two notices of non-delivery instead of one and you would rather have the one?

A. Yes.

Q. I assume it is not important to you which one of the carriers you get the notice from?

A. I would rather get it from the Oregon-Cal. Fast Freight. That is who I pay my bill to.

Q. That, I assume, is because of your more direct contacts with the Oregon-Nevada-California Fast Freight?

A. Yes.

Q. And that is more or less of a personal preference, I
730 take it?

A. Yes.

Q. Have you ever received any complaints from any of the retail customers concerning the inadequacy of the present transportation service?

A. No.

Q. Have you ever made complaints to any of the truck lines concerning any inadequacy of their service?

A. No; I haven't.

Q. Have you ever used the service of the Pierce Auto Freight Lines on shipments to points north?

A. No.

Q. Do you know what other truck service is available at the present time to points in the territory which you serve in Oregon and Washington?

A. I know there are several, but I never really paid any attention to them.

Q. And I assume the reason you haven't paid any attention to them is the fact that you have been satisfied with the service you are getting now?

A. Yes.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Miss Munderlich, as a matter of policy your company has elected to patronize the Oregon-Nevada-California Fast
731 Freight and its carrier with which it connects at Medford, where an interchange is involved at Medford, rather than to patronize any of the existing truck carriers who furnish a through service between San Francisco and Portland involving no interchange at any intermediate point. Is that the fact?

A. Yes.

Q. Is it fair to assume from the fact that you have adopted that policy that you don't want a through service involving no interchange offered by any of these other truck carriers and are not

interested in a through service involving no interchange at an intermediate point between San Francisco and Portland unless it is offered by the Oregon-Nevada-California Fast Freight, is that correct?

A. Yes.

Mr. FARRENS. That is all.

Mr. IVERS. No questions.

Mr. JENNINGS. No questions.

Redirect examination by Mr. BEROL:

Q. Miss Munderlich, Mr. Farrens asked you as to your preference between this carrier and some carriers offering a through service. Have you had any experience with any carriers other than the Oregon-Nevada-California Fast Freight?

A. Just the Los Angeles-Seattle Motor Express.

Q. And have you used the Los Angeles-Seattle Motor Express?

732 A. Yes.

Q. Did you find from your use of that company that the service was satisfactory to you?

A. No.

Q. Did you discontinue the use of that company?

A. Yes; I did.

Mr. BEROL. That is all.

Recross-examination by Mr. IVERS:

Q. When did you use the Los Angeles-Seattle Motor Express?

A. It was last fall.

Q. And did you have some difficulty?

A. Yes; I did.

Q. What was the difficulty?

A. I sent a shipment north by them. I used them quite a bit for a while there, and this shipment was refused. I don't know, it took about six weeks to get that shipment back in our warehouse and about two months to get an adjustment on my bill. And then I paid them a check and it was wrong. The rate was wrong, and I don't know how long that check was out before they finally sent me another check—before they sent me my refund. About three or four months I had that on the books.

Q. You shipped a number of shipments at that time?

A. Yes; I did.

733 Q. And you had difficulty with just this one shipment?

A. Yes.

Mr. IVERS. That is all.

Chairman TERRIL. Anything further of this witness?

Mr. BEROL. That is all. Thank you very much, Miss Wunderlich.

(Witness excused.)

Mr. BEROL. Call Mr. Russell, please.

FRANK L. RUSSELL was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name, please, Mr. Russell?

A. Frank L. Russell.

Q. Where do you reside?

A. I beg your pardon?

Q. Where do you reside?

A. Berkeley.

Q. What is your business or occupation?

A. I am purchasing agent for the United Autographic Register Company.

Q. And how long have you been so occupied?

A. About eight months.

Q. And are you familiar generally with the transportation problems of your company?

734 A. Yes, sir.

Q. What is the commodity in which your company deals?

A. Business systems; printed matter; printed forms.

Q. Are you familiar generally with the nature of the application pending here?

A. Yes, sir.

Q. And you have been informed that the Oregon-Nevada-California Fast Freight seeks to serve Lakeview and the Coos Bay area in Oregon offering a second-day delivery?

A. Yes, sir.

Q. And also they propose to extend their line beyond Medford into points on Highway 99 in Oregon and into Vancouver, Camas, and Washougal, Washington?

A. Yes, sir.

Q. Does your company have occasion to make any shipments to those points?

A. Yes, sir.

Q. And are you familiar with the frequency in which your company moves shipments there?

A. Yes, sir.

Q. For example, take Lakeview. Approximately how frequently do you ship into Lakeview?

A. Well, shipments there will be more or less spasmodic. We might ship every day there for a week, then we might go for a week without shipping any at all.

735 Q. Would you say that through the year they would average two or three shipments a week into Lakeview?

A. Yes, sir; I would say so.

Q. How about the Coos Bay area, Coquille and Marshfield?

A. We ship there in that territory. I would say we ship there every day.

Q. Every day?

A. Yes.

Q. Are you familiar with the amount of time it takes your merchandise to arrive in Lakeview after leaving San Francisco at the present time?

A. Yes, sir.

Q. And approximately how long does it take?

A. Oh; it takes about three days at the present time.

Q. Do you understand that the applicant is offering a next afternoon delivery?

A. Yes, sir.

Q. Would the service as offered by the applicant be of any advantage to you over existing services?

A. Very much.

Q. Is the matter of the time in transit as between one day and three days of any importance to you in the shipment of your commodity?

A. A great deal; yes, sir.

Q. Will you explain why, please?

736 A. Well, because we furnish printed stationery to business houses and they usually wait until they are almost out of these forms before they order, and they want them just as soon as they can get them.

Q. With respect to time in transit between San Francisco Bay points and points on Coos Bay, are you familiar with the time in transit at the present time?

A. In a general way; yes, sir.

Q. And what is your understanding of it?

A. Well——

Mr. FARRENS (interrupting). Just a minute. May I ask which time in transit are you talking about?

Mr. BEROL. Between San Francisco and Coos Bay.

Mr. FARRENS. I mean, what carrier's time in transit?

Mr. BEROL. Well, I will break the question down.

By Mr. BEROL:

Q. At the present time do you make your shipments to Coos Bay area by what means of transportation?

A. Well, some by truck and some by rail.

Q. With respect to time in transit by truck, are you familiar as to how long it takes for your shipments to arrive in Coos Bay?

A. Well, it is about two days.

Q. Are you familiar with the time in transit by rail between San Francisco?

A. It is about the same.

737 Q. About the same?

A. Yes.

Q. And as between the two days time in transit, on the one hand, and the next afternoon delivery as offered by this applicant, on the other hand, which is more advantageous to your company?

A. Well, of course, the quicker delivery.

Q. And is that for the same reasons as expressed by you with respect to Lakeview?

A. Yes, sir.

Q. You have occasion, I believe, to make shipments to points north of Medford, you stated as far as Washington points?

A. Yes, sir.

Q. You also make shipments into Seattle?

A. Yes, sir.

Q. Have you been advised that the applicant proposes a through truck service making deliveries to all points as far north as Eugene the next day?

A. Yes, sir.

Q. And that points beyond Eugene to and including Seattle will be available for service on the second morning?

A. Yes, sir.

Q. Do you have occasion, did you say, to ship into Vancouver, Washington?

A. Yes, sir.

738 Q. Washougal?

A. Yes, sir.

Q. Camas?

A. Yes, sir.

Q. As to the shipments to all of these points, are you in a position to give me an estimate as to the volume by tonnage that your company moves in there during the course of a month's time on the average?

A. I would say it is ten, twelve thousand pounds, perhaps.

Q. Ten or twelve thousand pounds?

A. Yes, sir.

Q. And on the whole, to one point or another you have shipments moving daily?

A. Yes, sir.

Q. Have you had any experience with the present combination service of the Oregon-Nevada-California Fast Freight and Consolidated?

A. Yes, sir.

Q. You understand that at the present time they interchange freight at Medford?

A. Yes, sir.

Q. Has that practice and that service caused you any inconvenience or difficulty in the past?

A. Well, it has, but I can't point to any specific instances except that there have been complaints. That's all.

739 Q. In the sale of your products to points in Oregon and Washington do you have competition from other manufacturers in that area?

A. Yes, sir.

Q. Is that competition a factor that enters into your desire to have as quick transportation facilities available as possible?

A. Very much.

Q. Based upon the service that the applicant here proposes, is it your view that such a service would help you in the conduct of your business?

A. Very much.

Q. Do you feel that you need it in the further conduct of your business in the sale of your commodities to Washington and Oregon points?

A. Yes.

Q. And would you use it if it were made available to you?

A. Yes, sir.

Q. Based upon your experience with the Oregon-Nevada-California Fast Freight, would you say that they were a reliable, dependable transportation agency?

A. Entirely.

Mr. BEROL. That is all. You may take the witness.

Chairman TERRIL. Cross-examine.

740 Cross-examination by Mr. ROBERTS:

Q. Mr. Russell, what amount of shipments do you make by truck? This which you have related, is that l. by truck shipment or is that parts of them by rail?

A. No; that is part by rail.

Q. How much?

A. I would say it is perhaps half and half.

Q. Half and half?

A. Yes.

Q. Do you require any expeditious shipment in those materials that you ship by rail?

A. Well, when we—yes. We would rather have it up there faster. Is that your question?

Q. But you do use rail?

A. Yes; we do use rail.

Q. And you find that that is entirely satisfactory?

A. Oh, it has been.

Q. To your customers?

A. It is not satisfactory. We would like to use a faster service if we could get it.

Q. Well, how does the truck service compare with that of rail service?

A. Well, it is faster.

Q. Faster?

A. Yes.

741 Q. And yet you use half of your shipments by rail and half by truck, approximately?

A. Yes, sir; about that.

Q. Why do you do that way, if expedition is the sole purpose?

A. We want to distribute our business around. That's the idea.

Q. And the shipments that you make by rail, you find that the customers find that entirely satisfactory?

A. Yes, sir.

Q. The service which is accorded is entirely satisfactory?

A. Yes, sir.

Q. Do you make many shipments into the area between Medford and Portland?

A. Yes, sir.

Q. Quite a lot down there?

A. Yes.

Q. You found the service which you received so far satisfactory?

A. Yes; as satisfactory as we can get it, so we think that is satisfactory.

Q. What facilities do you use beside that of the applicant? Any?

A. You mean besides rail?

Q. Yes.

A. We use rail and the applicant.

Q. You don't use any other carrier facilities? Truck carriers?

742 A. Not to my knowledge.

Q. Do you know whether or not any other are available for through shipments?

A. Not to my knowledge; no.

Q. Not to your knowledge?

A. No.

Q. If there were would you use that through shipment?

A. We would be very glad to if they could produce the same sort of service; yes.

Q. That is now being produced by Oregon-California-Nevada?

A. Yes.

Q. You would utilize that service?

A. Yes.

Mr. ROBERTS. I think that is all.

By Mr. FARRENS:

Q. Mr. Russell, if you could be shown that there is a dependable daily service between San Francisco and Portland and intermediate points rendered by a carrier other than this applicant and a service which involves no interchange at any point between Portland and Medford, and the consequent delay due to interchange, would you take all of your business away from the Oregon-Nevada-California Fast Freight and give it to such a carrier because of the opportunity to avoid the interchange and the delay at the interchange points?

743 A. No, sir; because my experience with the Oregon-California Fast Freight has been eitirely satisfactory and I don't know about the service of anyone else.

Q. Then your appearance here in this case as a witness is based wholly on this satisfactory past experience and your preference for that carrier?

A. Only because they have given us a dependable service.

Q. Then I take it you would not be interested in how many carriers there are rendering through truck service between Portland and San Francisco? You are going to stick by the present carrier that you are using?

A. No. If they could give us the same sort of service I wouldn't have no discrimination at all.

Q. Well, I am having a hard time, Mr. Russell, squaring what you said about your unwillingness to take all the business away from this applicant, which has an interchange at Medford, and give it to a through carrier who does not have such an interchange.

A. But I don't know anything about this other carrier at all.

Q. I am asking you to assume that it is a perfectly reliable, dependable carrier. Now, if there is such a perfectly reliable, dependable carrier offering through service, which does not involve an interchange at Medford or any other intermediate point, then if this question of avoiding the interchange is a matter of importance to your company would you take all your business away from this applicant and give it to such through carrier?

744

A. No, sir.

Q. Well, just how important is the question, then, of your avoiding this interchange at Medford?

A. Well, I want service and I don't know a thing about any other truck service at all or any other carrier.

Q. Let me ask you a hypothetical question. If a carrier just as dependable as this applicant and one giving just a good service as this applicant and one, in addition to such good service and dependability, avoids any interchange at intermediate points and handles a through service from Portland to San Francisco were available to you, then would you give it all the business that you are now giving to the applicant?

A. No; I don't think we would give it all to them.

Q. Well, then, just what bearing upon your distribution of your freight to carriers does this question of an interchange at Medford or some other intermediate point between Portland and San Francisco have in the matter anyhow?

A. I didn't understand your question.

Q. Just what bearing does the existence of this interchange have on your distribution in respect to distributing freight between carriers? Is that the controlling factor?

A. No. The controlling factor at the present time is service. That is what——

Q. (Interrupting.) Any by "service" what do you mean?

745 Well, speed, dependability, reliability?

Q. Assuming that reliability and dependability are equal as between the carriers, would you take all your business and give it to the fastest carrier?

A. Yes; I think that I should.

Q. Well, do you know whether or not there are now truck lines operating between Portland and San Francisco giving through and faster service than the joint-line service offered by this applicant and Consolidated Freightways?

A. I don't know.

Q. Who in your organization, Mr. Russell, determines the question of the allocation of freight between carrier?

A. The shipping clerk.

Q. And are you familiar with his work?

A. Yes, sir.

Q. Do you know whether the shipping clerk or anybody in your organization has investigated the services available via the schedules of other truck operators from San Francisco to Portland?

A. I don't know, sir.

Q. Well, is it a fact that the service which you are now getting from this applicant and its connecting carrier is so nearly 100

percent perfect that you have not se n fit to make an investigation with respect to the service offered by other carriers?

746 A. No.

Q. Well, has such an investigation been made?

A. That there was a faster service?

Q. Yes. Have you investigated to find out whether there is a faster service for through service?

A. I haven't; no, sir.

Q. Has your company through others?

A. I don't know, sir.

Q. Well then, if you don't know and, assuming for the sake of this question that no such investigation has been made, is it not fair to assume that the service which you are now getting through the Oregon-Navada-California Fast Freight and its connection at Medford is so nearly satisfactory that it was not worthwhile for an investigation to be made?

A. No. But if we can get a better service we want it.

Mr. FARRENS. I don't think you have answered my question yet, Mr. Russell. Will you read that last question?

(The pending question was read by the reporter as above recorded.)

The WITNESS. No. It has come to us that there is a chance of getting faster service from the applicant into this territory, and if there is, well, we want it.

By Mr. FARRENS:

Q. Yes. But, Mr. Russell, if faster service and avoidance of interchange were a matter of importance to your company,

747 why during these past years have you not made an investigation to ascertain whether or not other carriers could give you faster service and through service which avoided the interchange?

Mr. BEROL. Just a moment. I submit that that question has been asked and answered several times.

Mr. FARRENS. It has been asked, but it has never been answered.

Mr. BEROL. The witness stated that the personally has not made such an investigation and he didn't know whether the shipping clerk who routes these matters did or did not make such an investigation. Now, those are the facts. How could the witness go beyond that?

Mr. FARRENS. He can answer me why, if such an investigation has not been made, it was not made.

Chairman TERRIL. I take it the witness may answer the question, if he is able.

A. I don't know why it was not made.

By Mr. FARRENS:

Q. Could it be that it was not made because the service which you are getting through the applicant and its connection was sufficiently satisfactory that it was deemed unnecessary to make such an investigation?

A. I wouldn't know.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. Do you sell your products to the applicant?

A. I don't know that, sir.

748 Q. Don't you know, as a matter of fact, that companies in your line of business who are competitors, as well as yourself, make a practice of allocating their shipments of their products on the basis of the sales to carriers?

A. I know that that is a practice; yes, sir. But I don't know about this specific case because I don't know anything about the sales.

Mr. IVERS. That is all.

By Mr. JENNINGS:

Q. Where is your competition located, Mr. Russell?

A. Well, all up and down the Coast. We have some in Los Angeles, some in Oakland, some in Seattle, and some in Portland.

Q. With respect to the territory intermediate between Medford and Portland, where is the principal competition located?

A. Well, there is one in Seattle and one in Portland; very keen competition both places.

Q. Would you be benefited by an expediated service from San Francisco to that territory if the same expedited service applied in the opposite direction to your competitors?

A. You mean if it would come back from Seattle?

Q. Yes.

A. I don't know anything at all about that. I am not interested in that.

Q. You understand that this applicant expects to operate in both directions, do you?

749 A. Well, I don't know. I am not interested in that. All we do is to ship up the Coast.

Q. Your competitor ships in the opposite direction then?

A. Yes. Our Seattle competitors ship this way.

Q. So that if the expedited service applied to both directions you would have no particular advantages as compared with your competitors?

A. Yes, sir. I see that. No, sir.

Mr. JENNINGS. That is all.

Redirect examination by Mr. BEROL:

Q. Are you willing to take the chances with your competitor if the transportation facilities are the same to you both?

A. Yes, sir.

Mr. BEROL. I think that is all. Thank you, Mr. Russell.

Chairman TERRIL. You may be excused.

(Witness excused.)

Chairman TERRIL. We will recess, gentlemen, until 1:30.

(Whereupon, at 12:10 p. m. adjourned until 1:30 p. m.)

AFTERNOON SESSION—1:40 P. M.

Chairman TERRIL. You may proceed.

Mr. BEROL. Call Mr. Harvey, please.

GEORGE EDMOND HARVEY was sworn and testified as follows:

750 Direct examination by Mr. BEROL:

Q. Will you state your full name, Mr. Harvey, please?

A. George Edmond Harvey.

Q. Where do you reside?

A. I reside at 452 60th Street in the City of Oakland.

Q. What is your business or occupation?

A. I am shipping clerk for the John A. Roebling's Sons Company.

Q. And how long have you been so occupied?

A. I have been with the company 16 years. I have been shipping clerk for the last 8 years.

Q. And, as such, are you familiar with the transportation problems of the company?

A. Very much so.

Q. Are you authorized by your company to appear here and testify?

A. I am, sir.

Q. Are you familiar in a general way with the application of the Oregon-Nevada-California Fast Freight?

A. Well, I am familiar with it inasmuch as I know they wanted to get some better service up in that neck of the woods.

Q. Do you understand generally what they are proposing to do is to operate a new truck service between San Francisco Bay points, on the one hand, and Lakeview on the other; a through service between San Francisco Bay points and the Coos

751 Bay area, Marshfield, Coquille and that area; and to extend their line north of Medford into Portland and Vancouver, Camas and Washougal, Washington? Particularly insofar as their proposal between San Francisco Bay points and Lake-

view, the Coos Bay area and the territory north of Medford on Highway 99 to and including Portland, do you have occasion to make shipments into that area?

A. I do.

Q. What products does your company deal in?

A. They deal with woven wire fabric, such as wire netting, wire cloth, wire rope, insulated wires. That's about all.

Q. Do you maintain a warehouse in San Francisco?

A. We do, sir.

Q. Do you maintain warehouses at any other points on the Pacific Coast?

A. Los Angeles, Seattle, and Portland.

Q. Insofar as some of the points in Oregon that I have mentioned are concerned, are they normally served out of San Francisco or out of Portland and Seattle?

A. Well, they are served out of all points. Some of the items, however, the Portland store don't carry. At other times they carry it and they are out of stock and it is shipped direct from our San Francisco store to their customer.

Q. Where do you maintain the larger supply?

A. San Francisco.

752 Q. With respect to shipments to Lakeview, Oregon, can you give me an idea as to how frequently you ship there?

A. Well, that would be very hard to say. Up in the entire Pacific northwest I would say we ship about three days out of five working days.

Q. With respect to the shipments that you make, are they generally for stock or are they generally for immediate use?

A. Well, I would say about 75 percent of that that we ship up there are very much in a hurry. It's lumber camps where there has been a break-down, elevators; and even in the insulated wire business we are compelled to get it up there just as fast as we can, especially in the event of break-downs, which in the wire rope business that holds most—90 percent of the cases.

Q. What are the sizes of the shipments that you make?

A. Well, they go—they might go from a hundred pounds to a ten-ton wire rope.

Q. And with respect to the freight, is that paid by your company or by the consignee?

A. Our company will prepay insulated wire over a hundred pounds to any point, including Honolulu; and in the wire rope we will prepay any amount if it weighs two hundred pounds or better.

Q. Would you say that the majority of your shipments in this are are within those limits of one hundred and two hundred pounds that you make?

753 A. I would; yes.

Q. Are you familiar with the time in transit under present shipping methods between San Francisco and Lakeview?

A. Well, the transportation as I know it now is second morning to Portland and third morning to Seattle.

Q. Is it likewise second morning as to points north of Medford?

A. Well, I really don't know.

Q. With respect to shipments into the Coos Bay area, Marshfield and Coquille, do you know what your present service is?

A. No. If it is up in that neck of the woods we send it by truck, and if it is the best service we can get we can do no other.

Q. The proposal here is to give you next day service in the afternoon at Marshfield and Coquille, also Lakeview; to give you the next day deliver at points north of Medford as far as Eugene; and second morning delivery at Portland and also Seattle.

A. Yes.

Q. Would that in any way assist you as far as the making of your shipments are concerned?

A. Well, it certainly would, in the event that Seattle would beat us in there about 24 hours then, if it is second morning to Seattle. As we stand now, it is third morning to Seattle.

Q. And you understand the proposal is second morning?

A. Yes. It would benefit us a great deal because we have
754 got quite a little competition, especially in the wire rope game. And, all things being equal, the only other item would be speed. If we can get up there quicker than the other fellow we stand a better chance of getting the order. We have occasions, if we can't get it up there at a certain time, to just forget the order entirely.

Q. Do you feel that the kind of service that is proposed here will be of an advantage generally to you in hauling your shipments up there?

A. It certainly would. If such wasn't the case, I doubt whether or not I would be given permission to be up here right now because we are very, very busy.

Q. And if the service is instituted will you use it?

A. I certainly will.

Q. Have you had any experience with the Oregon-Nevada-California Fast Freight?

A. I have, indeed.

Q. Over how long a period of time?

A. Since ever I have been shipping clerk; for the last eight years or so.

Q. What can you say of the character and quality of that service?

A. I think it is very excellent. As a matter of fact, when I got this position first, the shipping clerk's position, I would call the Oregon-Cal. if I needed a pick-up. And one of
755 the drivers very kindly condescended to call on me every day whether we had a pickup or not. He still does. I don't know his name. He is a little short chap. Other truckers we must phone for a truck if we require one.

Q. Based upon your experience would you say that they are a reliable, dependable transportation agency?

A. 100 percent; yes.

Mr. BEROL. That is all. You may take the witness.

Chairman TERRIL. Mr. Harvey, how much of your movement to Oregon and Washington points do you move by truck? What percentage?

The WITNESS. Practically all of it, sir.

Chairman TERRIL. Do you use rail service in conjunction with any of this?

The WITNESS. No, sir. The only time we use rail—for instance, if one of our stores are going to take some overstock off our hands that there is no hurry on, for instance, a dead stock that they think they can get rid of, we will send it up by rail because there is no hurry on it.

Chairman TERRIL. For instance, if your Portland Branch is short in some number do you ship that by rail or by truck?

The WITNESS. Well, if they are short, like—or perhaps I didn't make myself clear. If they are short—for instance, if they get an order in Portland and they have an order for it and they haven't got it and require that we ship it to the
756 Portland store, then it goes by truck. If it is simply an item that we have an overstock of and they feel that they can get rid of it and if there is no hurry, we send it by rail.

Chairman TERRIL. Suppose you have a shipment of wire rope involving four of five tons in one shipment, would that move by truck?

The WITNESS. Yes, sir. If that is an order originating out of the Portland store it would go by truck without question.

Chairman TERRIL. And you are able to state that during a given period of time approximately what would be your truck movements into the Oregon and Washington territory from San Francisco?

The WITNESS. Well, I would say about five tons in a month.

Chairman TERRIL. Have you any idea what percentage of this is being handled by the Oregon-Nevada and the Consolidated connection at the present time?

The WITNESS. I would say about 85 percent of it.

Chairman TERRIL. Cross-examine.

Cross-examination by Mr. ELLIS:

Q. As I understand your testimony, you maintain warehouses and distribution facilities at San Francisco, Portland, and Seattle at the present time?

A. And Los Angeles; yes, sir.

757 Q. Do you have competitors with warehouses at the same points?

A. I am not familiar with that up in their end of it. We have a great deal of competition in San Francisco, however.

Q. Then you know nothing about what competition you are meeting in the northwest at the present time?

A. Not as regard—no; I would say, no.

Q. I assume your company maintains or attempts to maintain a fairly complete stock of the items which are most in demand in the northwest territory at Portland and Seattle?

A. Yes; that's true.

Q. To the best of your knowledge, as far as you know, there are no competitors that do a better job of that than you do, if you have competitors?

A. I am really not familiar with the competition up in the north, sir.

Q. What competition do you have in San Francisco that you have to keep up with in serving the northwest?

A. Well, you have got Columbia Steel, which manufactures in the City of San Francisco; E. H. Edwards manufactures rope in South San Francisco. We have no manufacturing plant at all, merely warehousing. You have a number of wire rope companies in the City here.

Q. But you do carry a large stock of wire rope?

A. We carry a tremendous stock.

Q. At all points?

758 A. Yes, sir.

Q. So far as serving the northwest is concerned do you know of any competitor at the present time who has any better transportation facilities than are available to you?

A. No. I know Oregon-Cal., Mitchell, Pierce. I have no complaints against either one of them. I am merely interested in whether or not we could better the service. The time element is our only element up in that neighborhood.

Q. Have you used the service of Pierce lately?

A. I have, sir; yes, sir.

Q. Have you had occasion to use the present through service that is operating?

A. No; I have not.

Q. Are you in position to state whether the service proposed by this applicant is any better than the service that is being given

by the other carriers at the present time, as far as time is concerned?

A. If what the applicant says is true he goes in to Seattle on the second morning, I would say that is better service than we are using now.

Q. You mean better service than you are now using by the applicant and Consolidated?

A. That is correct.

Q. Have you made any investigation to find out whether you can get second morning delivery in Seattle by existing car-
759 riers? Any existing carriers?

A. No. I simply have got the word of the carriers themselves: That it is second morning to Portland and third morning to Seattle. I haven't had anything to the contrary.

Q. And from what carrier did you get that information?

A. Pierce and Mitchell.

Q. Have you ever complained of any of those carriers concerning the character of their present service?

A. I have never had occasion to complain, sir; no.

Q. To summarize your position, it is merely that if service can be speeded up, made faster than it is at the present time you, as a shipper, would like to see it done and you are not interested in just how that is accomplished?

A. Oh, I don't care what line does it. The line that goes through there faster is the one that I would use. I would have to. I would be compelled to.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Is Mr. Arthur Brown the head of your present organization?

A. He is, sir. You bet!

Q. Do you know what line Mr. Brown uses in shipping southward from Portland?

A. No; I am not familiar with that, sir.

Q. The greater portion of the Oregon territory south and west of Portland and of the south central Oregon territory, Kla-
760 math Falls and Bend, would be serviced by your Portland warehouse?

A. Well, I service Klamath Falls.

Q. But the rest of the territory is serviced by your Portland warehouse?

A. Yes, sir.

Q. Coos Bay section particularly receives most of its goods from your Portland warehouse?

A. From Portland; yes.

Q. So far as that territory up there is concerned the truck service which you receive from Portland southbound is really of

greater all-around importance to your company than truck service you get from San Francisco northbound, is it not?

A. Of course, I can only speak of the stuff coming out of San Francisco. It usually happens that—we will say, for example, the Portland store gets an order from their customer this morning, like we have occasion lots of times in the San Francisco store, the stock cards go short of what they have on hand. Then, whoever is to fill the order will go back into the office and report that he can't find it and a systematic search is gone through sometimes lasting several hours. At the end of the day they say they simply haven't got it. We have a teletype service, and we get that last-minute business. It must go tonight and be here at such-and-such a time. The best thing we can do is to send it by truck. Of course, it must be up there Tuesday morning,
761 which is impossible. So we do the best we can, and who carries it doesn't make any difference. All we are interested in is the time element.

Q. With the exception of Klamath Falls, all that Oregon territory, except in emergencies such as you have just described, is served from the Oregon warehouse?

A. That's right.

Q. So that the most important thing to your company as far as that particularly territory is concerned is the service rendered to you by the companies which serve southbound out of Portland, and it is only in the case of emergency that you have to rely upon the services of carriers moving northbound from San Francisco?

A. That's all. They are just shortages.

Q. And, of course, as far as the receiver of wire rope or any of your products is concerned, it can be an emergency to him on account of a breakdown or something of the sort just as well with respect to shipments moving out of Portland as with respect to shipments moving out of San Francisco?

A. Yes.

Q. That is true, is it not?

A. I don't quite follow you.

Q. Looking at it from your patron's standpoint——

A. (Interrupting.) Yes.

Q. (Continuing.) If he has an emergency where he has to
762 have some of the materials you sell quickly, it is just as much an emergency to him regardless of which point the shipment starts from?

A. Oh, absolutely. Absolutely.

Q. So that prompt truck shipments from Portland into the Coos Bay territory, for example, are just as important or, considering the volume of the movement, more important than prompt service from San Francisco. Is that not true?

A. Yes. Of course, that's true in a general sense talking of the Roebling's Company. I am talking now, of course, as a shipping clerk at San Francisco store. I am the fellow that has to tell them why it didn't get there. Now, the points that you say, of course, is true. The majority are shipped from our Portland store.

Q. Well, you are not——

A. (Interrupting.) Of course, that holds true also. He has occasion many, many times to ship stuff down to me that we may be short of. It doesn't all—what I mean to say is that it is a regular criss-cross service. We use them from Portland to San Francisco and from San Francisco to Portland, both.

Q. What I have in mind, Mr. Harvey, is this: You are just really doing it not from a standpoint of the Roebling's Company as a whole but from the standpoint of the San Francisco Office of the Roebling's Company?

763 A. Well, I couldn't talk intelligently about their service out of Portland. I have never been up there myself.

Q. Suppose that the competition which would result in this application being granted, the competition on the part of this applicant against those who are now serving your Portland warehouse, should result in damage to that service, that might do your company as a whole more harm than you are getting good out of the granting of the application?

A. Well——

Mr. BEROL (interrupting). Just a minute. To which I will object upon the ground that it is entirely speculative; on the further ground that the witness has already stated that he is testifying only with relation to the requirements of the San Francisco store; that he is not testifying neither with respect to the requirements of the Portland store, nor does he know anything about them; nor is he competent, therefore, to testify as to the relations of the two different stores.

Chairman TERRIL. If the witness can answer, it goes more to the weight of his testimony than anything else. If he can answer the question I think he should. The objection will be overruled.

A. (Continuing.) On that question there, I'm entirely unfamiliar with what services are used from Portland store, whether it is trucks or rail or how they use it. I really couldn't talk

764 about any of the stores, not even Los Angeles. Los Angeles uses truck service to me and I use it to them. But as far as Portland is concerned, concerning shipments from their own store to customers, I haven't any idea.

By Mr. FARRENS:

Q. Then is it a fair statement to say that the viewpoint of yourself, the shipping clerk of the San Francisco store, is that the ap-

plicant's proposal would be a convenience but that you don't know what the net ultimate convenience of your company might require?

A. You mean from the Portland standpoint?

Q. Yes; from all standpoints.

A. I couldn't tell you.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. You have occasion to receive shipments from the north, do you not, Mr. Harvey?

A. Yes.

Q. And those are from Seattle?

A. From Portland and Seattle, both.

Q. Both are routed by the Seattle and Portland offices, respectively?

A. As I say, it all depends just what that material is. If we have it already sold and the customer is waiting, it will come by truck. That's very definite. It will come by truck. Now, what truck, that is up to them unless if our San Francisco warehouse—

765 a lot of times they will say "Ship us to today via Oregon-Cal.," "via Mitchell," "via Pierce." Then the store in question will use whatever routing is put on. Most of the time they say "Ship today by truck."

Q. As a matter of fact, you receive considerable of your shipments from Seattle over the Los Angeles-Seattle Motor Express, don't you?

A. I don't believe so. I never heard of them.

Q. You never heard of them?

A. Los Angeles Motor Express?

Q. Los Angeles-Seattle Motor Express.

A. No; I have never used them.

Q. Do you receive the shipments that come from Seattle?

A. I do; yes.

Q. Do you know the carrier that carries them?

A. Yes; you bet.

Q. And if the Los Angeles-Seattle Motor Express has been bringing those shipments down south-bound how would you explain your lack of knowledge of that operation?

A. Well, we have a receiving clerk, but when—it is usually only one piece. It may be three or four pieces, but usually only one piece. Now, we may have received something by it, but not to my knowledge.

Q. Do you know anything about their service?

A. I do not; no, sir.

Q. You do not know, then, whether or not they are ren-
766 dering a second morning delivery in Seattle?
A. No. As I told you a minute ago in good faith, I never have heard of them to my knowledge.
Q. If they are rendering a second morning service into Seattle from San Francisco would that suffice as far as you are concerned?
A. Absolutely.
Mr. IVERS. That is all.
Mr. BEROL. That is all, Mr. Harvey. Thank you very much.
The WITNESS. Yes, sir.
(Witness excused.)
Mr. BEROL. Call Mr. Cordes.

ARTHUR HOLMES CORDES was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. What is your name, Mr. Cordes?
A. I beg your pardon?
Q. What is your name?
A. Arthur Holmes Cordes.
Q. Where do you reside?
A. 1527 18th Avenue.
Q. San Francisco?
A. San Francisco.
Q. What is your occupation?
A. Well, I'm sort of a traffic manager for the Northam
767 Warren Corporation.
Q. For whom?
A. Traffic manager for the Northam Warren Corporation.
Q. And what is the business of that company?
A. Toilet preparations.
Q. Do you understand, Mr. Cordes, that the applicant here, the Oregon-Nevada-California Fast Freight, is proposing a service out of San Francisco to the Coquille and Marshfield area making deliveries there the next afternoon; and is likewise proposing to extend its service from Medford to Portland, Oregon, serving all of the points intermediate between Medford and Portland?
A. I do.
Q. Do you in the conduct of your business have occasion to make shipments into that area?
A. Yes, sir.
Q. And I think you stated that the shipments you make are toilet preparations?
A. Yes.
Q. The answer is, Yes?

A. Yes.

Q. The reporter can't get it when you are shaking your head.

A. O. K.

Q. How frequently do you make shipments to that area?

A. Practically every day.

768 Q. What would you say as to the size of these shipments normally?

A. Well, anywheres from 100 to 1,500 pounds.

Q. And you make shipments every day, practically?

A. Yes, sir.

Q. Are you in a position to give me some estimate as to what the monthly average would be or the volume per month would be?

A. No, sir. That varies according to the seasons. But I would say on an average we make a half a dozen shipments a day.

Q. Half a dozen shipments a day?

A. That's right.

Q. Respecting particularly the service that is offered by the applicant between San Francisco and Coquille, making deliveries at Coquille and Marshfield the following day, would that be of any advantage to you in the conduct of your business?

A. I would say anything that would speed up the service would be an advantage.

Q. Is there anything in the transportation field that is available to you at the present time that will give you that kind of a service between San Francisco and Coquille?

A. Not that I know of.

Q. What effect, if any, do you feel that a service of that kind would have up on the business which you do in that area?

A. Well, I feel this way about any speed-up in service: It means that much more business. Everybody buys close nowadays

769 and they are all in a hurry to get their merchandise.

Q. As to the points between Medford and Portland, Oregon, you are generally familiar with that territory?

A. Yes, sir.

Q. Do you make shipments to all of those points?

A. We make shipments to the main line points, like Grants Pass, Medford, Eugene, Marshfield, Albany, Salem, McMinnville and further on north.

Q. Do you make shipments to Seattle?

A. Yes, sir.

Q. Do you understand that under this application the applicant proposes a service into Seattle that will arrive there the second morning after leaving San Francisco?

A. Yes, sir.

Q. And is that similarly in the same category of a faster movement that will help you in your business?

A. That's right.

Q. Now, do you have occasion to make any shipments southbound from the Washington or Oregon territory to San Francisco?

A. Very few.

Q. Those are infrequent?

A. Very few.

Q. I imagine they consist of return merchandise or something of that sort?

A. Yes, sir.

770 Q. Have you had any shipments transported by the Oregon-Nevada-California Fast Freight over the territory that they serve at the present time?

The WITNESS. Can I have that question again?

Mr. BEROL. Will you read it, Mr. Reporter?

(The pending question was read by the reporter as above recorded.)

A. Yes, sir.

By Mr. BEROL:

Q. And over how long a period of time?

A. The past two years.

Q. Have you shipped over their line frequently over the last two years?

A. Yes, sir.

Q. Based upon your experience with the company over the past two years, would you say that they are a reliable transportation agency?

A. I would.

Q. If the applicant is authorized to institute and does institute the service he proposes here, will you use that service?

A. Yes, I will.

Q. And it is your view that it will assist you in the conduct of your business?

A. I am quite sure that it will.

Mr. BEROL. That is all. You may take the witness.

771 Cross-examination by Mr. ROBERTS:

Q. Do you use truck facilities exclusively for your shipments?

A. No, sir; I do not.

Q. You use rail and, likewise, water?

A. Yes, sir.

Q. What proportion do you ship by truck into the territory to which you just testified in chief?

A. Oh, 50 percent.

Q. 50 percent by truck?

A. Yes, sir.

Q. And 50 percent by rail and water?
A. Not so much water.
Q. 50 percent by rail?
A. Yes, sir.
Q. Is there any requirement as to speed or expedition in your shipments as a general rule?
A. Yes, there is. We have demonstrations and things of that sort that require merchandise to be there in a hurry. It's up to me to use the faster service.
Q. The fastest service that you have available?
A. Yes.
Q. You have utilized the services of the Oregon-Nevada-California Fast Freight?
A. Yes, sir.
772 Q. You knew that there was interchange at Medford, did you, with the Consolidated?
A. I did.
Q. You found that service to be satisfactory?
A. I have never had a complaint.
Q. You have never had a complaint?
A. No, sir.
Q. Does it supply the needs and requirements which you have?
A. Yes, sir.
Q. As to the shipments?
A. Yes, sir.
Q. Have you utilized any other carrier at all?
A. No, sir; I have not.
Q. Do you know anything about any other carriers?
A. No; I do not. The men have been in to see me, but I started in with Oregon-Cal. and I have had no reason to change.
Q. Do you find it entirely satisfactory?
A. Yes.
Q. So that you have had no occasion to change?
A. That is correct.
Q. You don't know whether or not there is any faster service or more expeditious service into these points than is now afforded by Oregon-California and Consolidated?
A. No; I don't know of any faster service.
Q. You don't know whether there is any faster service
773 into Seattle?
A. No, sir.
Q. But even though there were a faster service would you still use the same facility you now use?
A. Yes; I would because I got started with them and, as I say, I see no reason to change.

Mr. ROBERTS. That is all. There is just a question I want to ask you.

By Mr. ROBERTS:

Q. Are you open Saturday?

A. No, sir.

Mr. FARRENS. No cross-examination.

Mr. IVERS. No cross-examination.

Mr. BEROL. I think that is all, Mr. Cordes. Thank you.

(Witness excused.)

Mr. BEROL. Call Mr. Gerken.

H. W. GERKEN was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. What is your full name, please?

A. H. W. Gerken.

Q. How do you spell that?

A. G-e-r-k-e-n.

Q. Where do you reside, Mr. Gerken?

A. Fairview Street in Berkeley, 1645.

Q. What is your occupation?

774 A. Warehouse foreman and shipping clerk.

Q. For what company?

A. Fairbanks Morse & Company.

Q. How long have you been so occupied?

A. Since the fall of 1919.

Q. What is the type of commodities that are generally dealt with by the Fairbanks Morse Company?

A. Engines, motors, pumps, scales, and parts thereof.

Q. In your capacity with the company are you familiar with their shipping problems?

A. Oh, yes.

Q. Are you familiar with the nature of the application that is pending here?

A. Yes, sir.

A. And you have been advised that it proposes a service to the Coos Bay area making deliveries there the following afternoon after leaving San Francisco?

A. Yes, sir.

Q. And also a through service between San Francisco and all points north as far as Portland, Oregon?

A. Yes, sir.

Q. Do you have any occasion to make any shipments to either Vancouver, Washington, or Camas, Washington?

A. Vancouver once or twice.

Q. Vancouver?

775 A. Yes, sir.

Q. With respect to the shipments that you make, is time in transit a matter of any consequence?

A. Time?

Q. Yes.

A. And good handling.

Q. Will you tell me why the time in transit is of any importance to you?

A. The very fact that our branch in Seattle or Portland orders these different items from us shows that they was out of stock and the customer will have to wait an additional two days at least before he can get this material.

Q. You maintain branches in both Portland and Seattle?

A. A main branch in Seattle and a subsidiary branch in Portland.

Q. Where do you carry the heavier stock? In San Francisco, Portland or Seattle?

A. San Francisco.

Q. How often do you have occasion to ship in to the northern area?

A. Oh, every other day practically.

Q. Every other day?

A. Yes.

Q. Is that regularly every other day?

A. It may go every day.

776 Q. Pardon?

A. It may also go every day.

Q. Would you say that it would be at least three or four times a week?

A. Oh, yes.

Q. What would be the normal weight of your shipments?

A. Well, the average weight, I should say, is five hundred for a shipment.

Q. Five hundred pounds?

A. Yes, sir.

Q. Do you have occasion to also ship from the Seattle and Portland areas to San Francisco?

A. Yes, sir.

Q. How frequently does that arise?

A. Not as often.

Q. And under what circumstances does it arise?

A. The same way.

Q. What I am interested in is the reason that you would have occasion to ship.

A. The reason is because of shortage in our stock.

Q. I see. With respect to shipments to the Coos Bay area, how frequently would you say those shipments move?

A. Well, those shipments would go through our Portland Branch, and any material being short in that Branch for that district would come through our warehouse, but it would
777 go to Portland first.

Q. Is there a service available to you between San Francisco and Coos Bay at the present time that gives you a next afternoon delivery?

A. To Portland?

Q. No; from San Francisco to Coos Bay.

A. To Coos Bay?

Q. Yes.

A. Well, I haven't had enough shipments to know about that.

Q. I see. What means of transportation are you using between San Francisco and the Oregon area at the present time?

A. Oregon-Cal. and Consolidated Freightways.

Q. Have you had experience with any other carriers in this area?

A. Yes; we have had.

Q. How long have you been using the Oregon-Nevada-California Fast Freight in conjunction with Consolidated?

A. Several years.

Q. Several years?

A. Yes, sir.

Q. Did you try these other carriers at the same time that you were using Oregon-Nevada-California Fast Freight?

A. Once in a while in between.

Q. How did you find their service compared with what is available to you at the present time by the Oregon-Nevada-Cali-
778 fornia Fast Freight?

A. It has taken too long to satisfy us.

Q. It has taken too long?

A. Yes, sir.

Q. You mentioned something about speed and good handling. What did you have in mind when you said you were interested in good handling?

A. Careful handling of the material and delivery in the shortest time possible.

Q. You understand that at the present time the Oregon-Nevada-California Fast Freight interchanges the lading at Medford with the Consolidated Freightways?

A. Yes, sir.

Q. What would you say as to the requirements of your company between a service that interchanges the lading at Medford

and one that will bring the commodities all the way on a through haul.

A. That's what we would desire. We would desire that service.

Q. You would desire a through service?

A. Yes.

Q. Have you had some experience in the past where this change of lading at Medford has caused you either delays or inconvenience?

A. We have.

Q. How long have you been shipping with the Oregon-
779 Nevada-California Fast Freight? A couple of years, did you say?

A. Oh, several years.

Q. Several years?

A. Yes, sir.

Q. Generally based upon your dealings with the company would you say they are a reliable transportation company?

A. Yes, sir.

Q. If the service is instituted as proposed here will you use it?

A. Yes, sure.

Q. Would you say that it would be a service that would be helpful to you in the conduct of your business?

A. Considerably.

Mr. BEROL. That is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. I assume your company does a pretty good job of maintaining its stocks at Seattle and Portland to meet the normal current needs of its customers?

A. I should assume so.

Q. Is it true that the emergency shipments represent a very small percentage in tonnage of the total shipments which your company makes?

A. Oh, I should say, yes.

Q. Your commodity is one which is of heavy weight; that is, most of them are heavy shipments?

780 A. Yes, sir.

Q. And you utilize both water and rail service to a substantial extent?

A. No; not water service.

Q. Not water?

A. Very seldom use water service. It is too slow.

Q. But you do use rail service quite extensively?

A. Not to points north or from points north.

Q. Between what points do you use rail service?
A. In the Valley points here and from our factory.
Q. From the factory to the warehouses at Seattle, Portland, and San Francisco?
A. Yes.
Q. And, as I understand it, you use the truck service only in the emergency balancing of short stocks at the different terminals and in deliveries of small shipments locally?
A. Also to our customers direct up north.
Q. Yes. You say you have used the service of other motor carriers?
A. I have.
Q. What other carriers have you used in the territory between here and Portland?
A. Pierce's.
Q. What?
A. Pierce's and the Los Angeles-Seattle——
781 Q. (Interrupting.) How did you find——
A. (Continuing.) Colletti and Diamond.
Q. What was the last one?
A. Colletti and Diamond.
Q. Are you familiar with the fact that Pierce Auto Freight Lines is giving regular through daily service at the present time?
A. So I understand; yes.
Q. Would you prefer to use the service of the applicant in this case in conjunction with Consolidated Freightways as compared with the services of through carriers that give the service from here to the north coast points without interchange at Medford?
A. Based on the past experience, I would prefer the Oregon-Cal. service because I like the handling of our goods by one carrier direct between the two points instead of too many different carriers handling it.
Q. Have you indicated that preference in the past by the amount of traffic that you have shipped via this applicant and Consolidated?
A. Oh, yes; yes.
Q. You have utilized this applicant's service in conjunction with Consolidated to a greater extent than you have other carriers?
A. Than the others; yes, sir.
782 Q. Notwithstanding you knew that other carriers were operating through service without interchange?
A. Yes.
Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Mr. Gerken, what percentage of your north-bound business have you been giving to this applicant during the past year?

A. A very small percentage of the total business.

Q. No. I mean the north-bound business. Let me rephrase it.

A. Practically all of it.

Q. In other words, during the past twelve months you have been giving practically of the north-bound shipments which move by truck to this applicant?

A. Yes, sir.

Q. Have you been giving any to any other truck company in the past twelve months?

A. It is either shipped by rail or another trucking concern, according to the instructions of the buyer.

Q. Well, isn't this the fact, to summarize it, Mr. Gerken: That except in the case of where you ship by rail or except in the case where your customer specifies a different truck line, you have given all of your north-bound business to the Oregon-Nevada-California Fast Freight during the past twelve months?

A. Yes. I have even changed from the buyer's instruc-
783 tions to that because of past experience.

Q. Would the same thing be true of the past 24 months' period?

A. Yes.

Q. How far back does that condition persist?

A. Several years.

Q. How many would you say?

A. Oh, I would say now, five years, anyway.

Q. For five years you have been giving all of the truck haul business which you controlled to the Oregon-Nevada-California?

A. More or less; yes.

Q. Have you given any business to Pacific Truck Express?

A. Well, maybe once or twice.

Q. When some shipper has requested it?

A. Yes; either that—yes; mostly in that case.

Q. I mean some customer?

A. I know what you mean. Some customer; yes.

Q. And that is the only occasion where you have given Pacific Truck Express the business?

A. I have found delay; even had a telegram from Seattle wanting to know where the goods were when we shipped by some of the others.

Q. Have you had any such occasions on the occasions when you shipped via Pacific Truck Express?

A. No. We only shipped once or twice and we never had any complaints.

784 Q. Then you really haven't given the Pacific Truck Express a trial, have you?

A. No; because I had good service out of Oregon and I had no occasion to, and as far as our branch is concerned, we want to stay with them.

Q. You know it to be a fact, do you not, that Oregon-Nevada-California Fast Freight and Consolidated Freightways constitute the only truck service between San Francisco and Portland which is a joint truck service?

A. Yes, sir.

Q. And that the others all operate through service?

A. Yes.

Q. And yet without having given the company operating a through service, like Pacific Truck Express, any trial at all except when requested by a customer during the past five years, you still prefer that joint service with the transfer of lading at Medford over the through service?

A. What I like about it is that the company directly is the same agent that picks up the material at our warehouse and delivers it on the other end instead of having a third party come in there. There's a delay there.

Q. But that isn't the fact now. The company that you are patronizing now picks it up and takes it to Medford and changes it with Consolidated Freightways.

A. And Consolidated delivers direct to our house in Portland.

785 Q. That is right. Then you have two companies that you have to rely on for that service?

A. Yes.

Q. Now, there are plenty of other companies, like Pacific Truck Express, who without any interchange deliver to Portland.

A. That is true. But how about another agent picking it up for them? Like for Pierce, Valley Motors will pick it up.

Q. Are you talking about Pacific Truck Express?

A. I don't know exactly about Pacific Truck Express, but we have had these experiences, and from the past experiences that we have had and the delay that it causes we found that the service that we received from Oregon was satisfactory and we don't bother with any other.

Q. Well then, this matter of there being the interchange at Medford, which results not only in the transfer of lading from one vehicle to another but which also results in a lay-over of eight or nine hours, has not been a matter of sufficient importance to your company to cause it to try out in a fair manner the services of all the carriers which are giving a through line service without an interchange?

Mr. BEROL. That is objected to as having been already asked and answered.

Chairman TERRIL. I think that is correct. I think it has been covered once or twice.

Mr. IVERS. It has been asked, but I don't know that it
786 has been answered.

Mr. FARRENS. It has been asked, but I have not yet gotten an answer to it. If counsel is prepared to stipulate that the answer is "yes," we will go ahead without question.

Chairman TERRIL. Well, to save time let the witness answer it if he can.

Read him the question, Mr. Reporter.

(The pending question was read by the reporter as above recorded.)

Mr. BEROL. Do you understand the question, Mr. Gerken?

A. The fact is that we often talked about it. We wish we had a through service with this company.

By Mr. FARRENS:

Q. You have wished that you had a through service?

A. Yes; so there wouldn't be a delay in Medford and not so much handling.

Q. Here is a company, Pacific Truck Express, which is giving through service with no delay and interchange at Medford.

A. Yes.

Q. I say to you, if that were a matter of such importance to your company why didn't you ascertain that fact?

A. They never solicited our business. I am not familiar with the company to know. We started with the Oregon-Nevada. We were satisfied with the handling of the goods, but we had also
787 experience with other companies which was not satisfactory. So that we decided to stay with the Oregon and the Consolidated set-up altogether.

Q. But you have used on a few occasions Pacific Truck Express?

A. On the specification of individual customers.

Q. And you had no unsatisfactory experience with it?

A. Because the service was from here to the north and not from the north down this way. So I don't know what the delivery service was on the other end.

Q. There was no delay that you know of?

A. No.

Q. And you know that was through service that did not involve an interchange?

A. As far as I know, I am not sure.

Q. And knowing all that you nevertheless had never made any efforts to try out that service for your own account?

A. No.

Q. As I understand you directly, you would like to see Oregon-California-Nevada Fast Freight be granted the right to operate through to Portland, but if they are not granted that right you are going to stick by them on their joint through service with the Consolidated Freightways?

A. I would.

Mr. FARRENS. That is all.

Mr. ELLIS. I have one more question.

By Mr. ELLIS:

Q. Is your place of business open on Saturday?

788 A. A skeleton crew is working.

Q. A skeleton crew?

A. We make shipments that are emergency.

Q. Your shipments on Saturday are very light compared with other days of the week?

A. Oh, yes; yes.

Q. Would you say about what percentage?

A. Last Saturday there were only about five orders.

Mr. ELLIS. That is all.

By Mr. IVERS:

Q. How long is it since you used the Los Angeles-Seattle Motor Express?

A. That was also on an order, as I remember now, specified from the——

Q. (Interrupting.) How long ago was it?

A. Several months ago; maybe longer.

Q. Do you know that your Seattle branch uses them quite frequently?

A. No.

Q. You don't know that?

A. I think most of the shipments on the Los Angeles-Seattle originate out of Los Angeles, in case we are short.

Q. And you know that Los Angeles Office does use them?

A. Well, I imagine they do because I have seen papers like that go through.

Mr. IVERS. That is all.

789 Chairman TERRILL. Mr. Jennings?

Mr. JENNINGS. No questions.

Redirect examination by Mr. BEROL:

Q. In response to a question by counsel, I believe you indicated that even if the Oregon-Nevada-California Fast Freight did not

succeed in running a through service you would still continue to use them compared to existing services. Is that right?

A. With those that I have had experience with.

Q. And that is based upon experiences that you have had with some of the other carriers?

A. Yes, based on that and based on the handling of the material by your company and the accommodations we have received from them.

Mr. BEROL. I think that is all.

Chairman TERRIL. I guess that is all, sir. You may step down.

Mr. BEROL. Thank you, Mr. Gerken.

(Witness excused.)

Mr. BEROL. Call Mr. Ramos, please.

A. S. RAMOS was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. What is your full name, please?

A. A. S. Ramos.

790 Q. And where to you reside, Mr. Ramos?

A. 2421 68th Avenue, Oakland.

Q. What is your occupation?

A. Parts and Service Manager, Peterbilt Truck Company.

Q. And how long have you been so occupied?

A. In the present company, since they have established their business last June, but we feel that it is a continuation of the Fageol Motor Company, which I was employed with for the last 14 years.

Q. And, as such, are you familiar with the shipping problems of the Peterbuilt Motor Company?

A. Yes, sir. That is handled through my department. I have full control of it. I have full control of the shipping and the receiving.

Q. Are you familiar in a general way with the nature of the application pending here?

A. Yes.

Q. And have you been informed that the Oregon-Nevada-California Fast Freight proposes to extend a through truck service from San Francisco to Portland serving all intermediate points; also between San Francisco and the Coos Bay area?

A. Yes.

Q. Have you had occasion in the conduct of your business to make shipments to those points?

A. We do.

791 Q. And particularly to what points?

A. Portland, Tacoma, and Seattle are our main shipments.

Q. Any shipments to the——

A. (Interrupting.) We ship to other points, emergencies, wherever the trucks may break down.

Q. Points between Medford and Portland, for example?

A. Yes.

Q. Coos Bay area?

A. Right.

Q. How frequently would you say that you ship into that area?

A. Which area is that? Coos Bay?

Q. Yes.

A. Right into Portland?

Q. No; first the Coos Bay area.

A. Coos Bay?

Q. Coos Bay; yes.

A. Well, that's not very often; I would say, maybe once a week. Sometimes you will get it three times a week.

Q. How frequently do you ship into the area of Medford, Oregon, and Seattle, Washington?

A. About two or three times a week.

Q. What is the average weight per shipment or the general size of the shipment?

A. Well, from 100 to 1,800 pounds.

792 Q. Is time in transit a matter of any consequence in the delivery of these items?

A. It is.

Q. Why is that?

A. Well, because all our shipments are truck parts and it is very necessary that they get there as soon as possible.

Q. Do you know of any service between the San Francisco Bay area and the Coos Bay area at the present time that is comparable to the service that is proposed by the applicant here?

A. None.

Q. Do you feel that such a service will help you in serving the needs of your customers?

A. I should say it would.

Q. Your testimony would be the same as to the area between Medford and Seattle?

A. That's what we are interested in, that area.

Q. Do you understand that as to that area the territory between Medford and Eugene will receive service the next day after leaving San Francisco or Oakland?

A. That would help us a lot.

Q. And that the territory beyond Eugene will receive service not later than the second morning?

A. That's fine.

Q. And that is the kind of service that you feel would be of help to you?

793 A. Yes, to us and our customers. What we are interested in is our customers.

Q. I beg your pardon?

A. I said that what we are mostly interested in is our customers getting the service.

Q. Do you make any shipments or have you in the past made any shipments over the line of the Oregon-California-Nevada Fast Freight?

A. Lots of them.

Q. How long a period have you done that?

A. Well, I would say the last ten years.

Q. Based upon your experience with the company would you say they are a reliable transportation agency?

A. Very reliable.

Q. Incidentally, are you selling them any trucks at the present time?

A. Not just yet.

Q. Do you expect to?

A. I hope so. That's what we are in business for.

Q. Let me ask you: Is the reason you are testifying here based upon your need of the transportation service or your hope to sell trucks?

A. No, transportation.

Q. Transportation?

A. We are not interested in just one inidvidual. We

794 are interested in all of them, if possible.

Mr. REROL. I think that is all. You may take the witness.

Cross-examination by Mr. ROBERTS:

Q. The shipments that you speak of two or three times per week between Medford and Seattle and 100 to 1,800 pounds, is that all by truck?

A. Yes; by truck.

Q. All by truck?

A. Yes.

Q. You don't ship any of these by rail?

A. Very, very seldom.

Q. And you have used the Oregon-Nevada-California Fast Freight for quite a number of years?

A. We have.

Q. You find the service now given satisfactory?

A. Very good.

Q. And have you used any other facilities except this one line?

A. Very seldom. Once in a great while we will get a customer who requests different truck outfits, or we ship per their instructions; very seldom.

Q. But other than that you have not used any other facilities?

A. No, sir.

Q. You find that this meets your needs as it is now?

A. Well, I would say, No. We are interested in—like I
795 stated a little while ago, if we can get better service up there, that's what our customers want.

Q. More expeditious service?

A. That is what we would like.

Q. If that were available to you at the present time would you utilize that service?

A. It all depends on how they would serve us.

Q. Assuming that the service is reliable?

A. I don't know. We kind of like Oregon-California Fast Freight service.

Q. In other words, even though the service were reliable, even though the service were more expeditious you would not use it under the circumstances?

A. No.

Mr. ROBERTS. That is all.

Chairman TERRIL. Mr. Farrens?

By Mr. ELLIS:

Q. Are you open Saturday afternoon?

A. Yes; as a matter of fact, we don't like to advertise it, but we maintain a 24-hour service.

Q. Are your shipments on Saturday as heavy as on other days of the week?

A. We get that in streaks. Some Saturdays you may have one, some Saturdays you have two or three. It looks like everybody waits for the weekend to do their repairs and that is where we get a lot of our business. I would say that Saturday is just as good as any other day.

796 By Mr. FARRENS:

Q. As I get it from your testimony, if Oregon-Nevada-California Fast Freight can give faster service you want it, but if it can't you are not interested in what anybody else may be able to produce?

A. At the present time; no.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. Do you utilize the service of the Los Angeles-Seattle Motor Express?

A. They do not pick up in Oakland.
Q. Where did you get that information?
A. Well, we tried to ship by them once and they just couldn't get the service.
Q. How long ago was that?
A. I really don't know.
Q. What is your position with the company?
A. Parts and Service manager.
Q. The what?
A. Parts and Service manager.
Q. How long have you been with the company?
A. The present company?
Q. Yes.
A. Since they have been in business.
Q. How long is that?
A. Last June.
Q. Last June?
797 A. A year ago last June.
Mr. IVERS. That is all.
Mr. JENNINGS. No questions.

Redirect examination by Mr. BEROL:

Q. Just one question. You were asked, Mr. Ramos, if the Oregon-Nevada-California Fast Freight were not permitted to extend its service and if there were some other truck service in the field that would give you a faster and a better service whether or not you would use it. Did you have in mind the services that were in existence at the present time?
A. That's rather difficult to answer. I would say, like I said before, we would kind of stick to the Oregon Fast Freight.
Q. And that is based upon your experience with them?
A. That's right.
Q. And taking into account also your experience with other companies?
A. That's right.
Mr. BEROL. I think that is all.
Chairman TERRIL. That is all, sir.
(Witness excused.)
Mr. BEROL. May we have a recess?
Chairman TERRIL. Would you like one now?
Mr. BEROL. Yes.
Chairman TERRIL. All right. Ten minutes.
(Whereupon, a short recess was taken after which proceedings were resumed as follows:)
798 Chairman TERRIL. Call your next witness.
Mr. BEROL. I will call Mr. Gregg.

DAVE A. GREGG was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Mr. Gregg, what is your full name?
A. Dave A. Gregg.
Q. Where do you reside?
A. 651 Shotwell Street, San Francisco.
Q. What is your occupation?
A. Traffic manager for Heggblade-Marguleas Company.
Q. Will you spell that for the reporter, please?
A. H-e-g-g-b-l-a-d-e M-a-r-g-u-l-e-a-s.
Q. And what business is that company engaged in?
A. Shipping of fresh fruits and vegetables.
Q. How long have you been with the company?
A. Four years.
Q. And you have been traffic manager throughout that time?
A. Three and a half.
Q. Three and a half?
A. Yes.
Q. Based upon your experience of three and a half years as traffic manager for the company are you entirely familiar with their shipping problems?
A. I believe I am; yes.
799 Q. Are you in a general way familiar with the application pending here?
A. Yes, sir.
Q. And you realize that the applicant proposes a service between San Francisco Bay points, on the one hand, and the Coquille-Coos Bay area, on the other hand, making deliveries there the next afternoon?
A. I do.
Q. And are you also familiar with the fact that the applicant proposes a through truck service between the San Francisco Bay area and Portland, Oregon, serving all intermediate points?
A. I do.
Q. And also an on-call service beyond Portland to Vancouver, Washington, and Camas, Washington?
A. Yes, sir.
Q. Do you in the course of your business ship to the Coquille-Coos Bay area?
A. No; we don't.
Q. Do you ship to the area north of Medford to and including Portland, Oregon?
A. We do.

Q. Do you ship beyond Portland to Vancouver, Washington, or Camas, Washington?

A. Yes. We ship as far north as Vancouver, British Columbia.

Q. As to the intermediate points between Medford and
800 Portland, to which you ship, will you name some of them?

A. Salem, Grants Pass, Roseburg. That's about all.

Q. How about Albany or McMinnville?

A. No.

Q. And do the bulk of your shipments go to Portland or to these intermediate points as far as Oregon points are concerned?

A. The bulk of them go to the intermediate points.

Q. The bulk of them go to the intermediate points?

A. Yes.

Q. How frequently would you say you have occasion to ship?

A. Every day.

Q. What will be the size of the shipments that you ship every day, from the smallest to the largest?

A. If the proper service were in we would ship, oh, from five to ten ton a day.

Q. And at the present time, in view of the lack of proper service, what do you ship?

A. During the summer months we don't ship there at all. Our shipments are confined to about eight months during the time when their local fruits and vegetables are not in season.

Q. And during those eight months what would you say would be the weight of the daily average shipments?

A. About six or seven ton.

Q. Six or seven ton a day?

801 A. It would average that; yes.

Q. With respect to the shipment of these fresh fruits and vegetables, how have you been shipping them?

A. We have been shipping them by Oregon-Cal. during the past year.

Q. Fresh fruits and vegetables are perishable, of course?

A. Yes, sir.

Q. Do they require refrigeration?

A. They do, definitely.

Q. What would you say with respect to the handling occasioned by interchange at Medford, Oregon?

A. I would say that we have considerable claims now pending because of that very fact.

Q. What would you say with respect to the time in transit, as to whether that is a matter of any importance in the transportation of fresh fruits and vegetables?

A. Definitely it is.

Q. At the present time, as to the points north of Medford to and including Portland, you receive a second morning service?

A. That's right.

Q. And do you understand that as to the points you have mentioned other than Portland, service will be available for delivery the next day?

A. The next afternoon, I believe, or evening.

Q. Yes.

A. Yes, sir; that's right.

802 Q. And do you also understand that insofar as your consignees in Portland are concerned, if they desire delivery of those fruits and vegetables in the evening, being the next evening after leaving Portland, they can have them?

A. The next evening after leaving San Francisco, you mean?

Q. Yes.

A. Yes, sir.

Q. Do you know as to whether or not your consignees in Portland would be interested in receiving that merchandise in the evening rather than waiting for the following morning for them?

A. They would if the delivery of them in the evening would mean that they would have them available for the next morning, whereas delivery around 8:00 o'clock in the morning would be no good at all.

Q. The market situation with respect to the sale of these fruits and vegetables in Portland, what time of the day is most important to those people in Portland?

A. Not later than 5:00 in the morning.

Q. So that if the shipments were available in the evening, even if it were late in the evening, would that be of assistance to them in preparing for the following day's market?

A. Very; yes.

Q. If a service of the type proposed here involving through equipment on refrigeration making delivery to all points,

803 including Portland, the next day were available to you would it be of any assistance to you in the conduct of your business?

A. Very greatly. Yes; it would.

Q. Do you believe that such a service would enable you to increase the volume of your business to those Oregon points?

A. We have the business. We are waiting for the service. That's the only thing.

Q. And if the service were made available to you would you use it?

A. We definitely would.

Q. Insofar as you know, is there any service available to you at the present time that is comparable to what is proposed here?

A. No.

Q. Has anyone presented such a service to you?

A. No, sir.

Q. Now, you have been shipping for some period of time over the lines of the Oregon-Nevada-California Fast Freight?

A. That's correct.

Q. Insofar as the service is concerned, subject to the infirmities you have mentioned, would you say that based upon that experience the Oregon-Nevada-California Fast Freight is a reliable transportation agency?

A. I would; yes.

Q. And is it your desire that such a service as is proposed
804 here be made available to you?

A. Yes.

Mr. BEROL. You may take the witness.

Chairman TERRIL. All your movement is north-bound?

The WITNESS. We had some south-bound. We have had very sad experiences the past year. We have had none since then.

Chairman TERRIL. Since that time, you mean, you have shipped nothing south-bound?

The WITNESS. That's correct.

Chairman TERRIL. How long ago was that?

The WITNESS. About six weeks ago.

Chairman TERRIL. Do you anticipate south-bound movement if this service or a comparable one is instituted?

The WITNESS. At certain periods of the year; yes.

Chairman TERRIL. How much of your shipments, if any, are in truck or trailerload lots?

The WITNESS. That's rather difficult to answer because——

Chairman TERRIL (interrupting). Are any of them in truckload or trailerload lots?

The WITNESS. They would be if the service were there.

Chairman TERRIL. I mean north-bound.

The WITNESS. North-bound; yes. Going from here to the north we would have truckload lots at times, and we would build up to that frequently if we had the service.

Chairman TERRIL. Have you ever had truckload lots in
805 the past?

The WITNESS. We had one trailerload that went up to Bend, Oregon, and it was very disastrous. So we never tried it any more.

Chairman TERRIL. How much of the present movement that you have is in refrigerated equipment?

The WITNESS. All of it.
Chairman TERRIL. All of it?
The WITNESS. Yes, sir.
Chairman TERRIL. All originating here in San Francisco?
The WITNESS. That's correct.
Chairman TERRIL. Cross-examine.

Cross-examination by Mr. ELLIS:

Q. Do you use the service of any other carriers than the applicant and Consolidated Freightways on your shipments to Portland and points intermediate?

A. We haven't for the past year.

Q. You did prior to that time?

A. Yes.

Q. Have you ever used the service of Pierce Auto Freight Lines?

A. No; we never have.

Q. Are you familiar with what service they are rendering at the present time?

A. Yes; I think I am.

Q. Do you know what that is?

806 A. I believe—I know that here a short time ago they had one truck weekly going north. I understand that that has been increased to one truck daily now.

Q. Have you ever used the service of the Pacific Truck Express?

A. Yes; we used that.

Q. Do you know what their present service is?

A. No, I don't; because it was not satisfactory at the time.

Q. Do you know whether there are other carriers than those two I have just mentioned and the applicant rendering service between San Francisco Bay and to points in the northwest?

A. I can't say definitely that I know who they are. I think there are some.

Q. Do you know whether any of them are giving refrigerated service at the present time?

A. Not outside of the Pacific Truck. That's the only one I know of, and Pierce.

Q. I assume your primary interest is in obtaining any improved service that you can, and you are not particularly interested in which of the several carriers furnish you that service?

A. No; I wouldn't exactly say that's true. I would want someone who has had experience in that line because this handling of perishables is a highly specialized business.

Q. After all, it is a service that you are looking for, however?

807 A. That's right. We have got to have the service or we can't use it.

Q. You say you have had several claims due to the interchange at Medford. Who did you file those claims against?

A. They have been filed against the Oregon-Cal. because they were the originating carrier.

Q. As I understand it, you have had some difficulty in having those claims adjusted?

A. No; we haven't at the moment. We have claims pending which have not been in the fire long enough to be settled yet.

Q. In those cases where you did file claims do you have any information as to whether the applicant in this case was responsible for the damage or the damage was occasioned by their connecting carrier?

A. I believe in every case it has been the connecting carrier. I think that's true in our case.

Q. From what source did you get that information?

A. Well, because the claims have been authorized—payment has been authorized by the carriers on the other end.

Q. What was the nature of the damage?

A. Rough handling.

Q. And it is your belief that that handling occurred at the interchange point?

A. Naturally, that's where I would assume it occurred.

Q. Are you aware of the fact that through service has been available over the lines of this applicant and Consolidated
808 Freightways without any interchange?

A. That's right.

Q. And under refrigeration for the past year?

A. That's right.

Q. Have you used that service?

A. We have.

Q. Do I understand that the shipments you are now talking about were not handled in that manner?

A. They were going to intermediate points where these through trucks do not serve.

Q. You have not been accorded that through service to any of these intermediate points?

A. No.

Q. If you were accorded that through service to the intermediate points would that largely serve your purpose?

A. That would help us considerably; yes.

Q. And you would also benefit, I assume, by removing any delay at the interchange that now exists at Medford?

A. Yes. Speeding up of the service would be very beneficial.

Q. Do you make shipments on Saturday?

A. At times we do; yes.

Q. In large quantities or is that a small shipping day?

A. For Portland that would be a large shipping day because it would be Monday's arrival; sale on Monday morning.

Q. But for intermediate points what is the fact?

809 A. No. It would arrive there Sunday and the small stores couldn't handle it on Sunday afternoons. There would be no way of getting it.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Delivery, then, at points like Eugene and Salem on the next afternoon would be of no value with respect to Saturday shipment?

A. No. On Saturdays it would not be, no.

Q. Mr. Gregg, how long ago was it that you had an unsatisfactory experience in shipping over the Pacific Truck Express?

A. It has been about a year ago.

Q. What was the nature of that trouble?

A. There seemed to be damage from gas, from dry oil; exposing the produce to dry gas.

Q. Is that the only particular experience of that particular type of damage that you had?

A. Pardon me?

Q. Is that the only particular experience of that particular type of damage that you had on Pacific Truck Express?

A. Yes.

Q. You understand that the management of the Pacific Truck Express changed, effective July 1, 1940?

A. No; I didn't know that.

Q. You have tried shipping on Pacific Truck Express since July 1, 1940?

810 A. No; I haven't.

Mr. FARRENS. That is all of my cross-examination of this witness.

However, in the sincere effort to shorten time in this proceeding I would like to say that, insofar as the clients I represent are concerned, it would be entirely unnecessary for counsel for the applicant to produce witnesses or make inquiries relating to the question of the reliability of the applicant as a transportation agency or its fitness and ability to extend the service from Medford north to Portland and to Vancouver on-call, if public convenience and necessity be found by the Commission to require such an extension.

I make this statement because, if other counsel concur with me in that respect, it will enable counsel for the applicant to rely on the testimony which he has already introduced of that character without further repetition of that line of examination.

Mr. BEROL. I am very grateful to Mr. Farrens. If other protestants will likewise agree to the statement made by Mr. Farrens, and if we have a stipulation to that effect, it will lessen the time of further examination, of course.

Mr. FARRENS. Let me say this, and I am sure I would not be misunderstood anyhow: But in making that offer of the stipulation I do not include the shortcomings which exist on the
811 part of this applicant and its connection, the Consolidated Freightways, in the practices relating to interchange at Medford. In other words, I do not regard that as including within my stipulation concerning the reliability and fitness and ability of the carrier, because in my opinion manifestly there are unjustifiable shortcomings in the interchange practices at Medford.

Mr. BEROL. I will say this: I would like to know whether we are going to have a stipulation or not. If the protestants are willing to stipulate to our fitness and ability, that is one thing that I know I need not worry about any more. On the other hand, if the protestants are willing to say that "We stipulate that the applicant is fit and willing up to a certain point, but beyond that he may be willing but he is not fit," then that is a different proposition and I still have to prove fitness.

Now, I would like to know where I am going to be before I agree to a proffered stipulation.

Exam. KEPHART. Perhaps we can eliminate the financial fitness.

Mr. FARRENS. I don't think there is any confusion in what I mean. I don't think counsel himself will contend that the interchange practices at Medford are all that they could be made to be, and subject to that limitation I am willing to stipulate that they are fit and able to conduct the proposed extension
812 operation. I mean, I don't know and it has never been demonstrated who is at fault, whether it is mutual or one-sided, at Medford on that interchange.

Mr. SCHAFER. It seems to me it is going to take longer to get the stipulation than it is to ask the question forty times.

Exam. KEPHART. Yes. Let us go ahead.

By Mr. IVERS:

Q. Mr. Gregg, you testified on direct examination that if you had the service you would increase your business. Now, what do you mean by that statement? What kind of service is it that you haven't got that you want?

A. If we had a service that would put our produce in the different, various destinations in good, sound condition under proper refrigeration in a short period of time, with no interchange, no rough handling, we have got plenty of business that will move up that way during the coming months.

Q. How much shorter period of time do you need in order to increase your business?

A. Well, from here to intermediate points they have to figure now that, say, it gets from here to Grants Pass. It gets there, I believe, for the second morning sometime. Is that correct?

Q. I don't know.

A. I believe it is. And if the service were speeded up it would be there around noon of the first day.

Q. And how would that contribute to your increase in
813 business? That is what I want to know.

A. Well, the main thing that our business would really be increased by the change in this service would be the fact that we would be certain that our produce was going through in one rig. The shortening of time, naturally, would be beneficial to many points.

Q. Would the shortening of time increase the consumption generally of the products in which you deal in any of these communities?

A. Shortening of time? I don't believe it would; no.

Q. It wouldn't?

A. No.

Q. Well then, how would you expect it to increase your business? That's what I want to know.

A. By the delivery of the produce at destination in good condition, which it is not being delivered in now.

Q. Well, they are getting the produce from somewhere, are they not, in those communities?

A. They are getting it by itinerant trucks who are taking it in there and selling it at 50 cents below the market on everything that they take in.

Q. But you don't think that the consumption in those communities will increase any even though the service will improve?

A. The consumption of good produce will increase.

Q. In what quantities do you ship this produce?

814 A. You mean to one individual customer?

Q. Yes. How do your shipments run?

A. They run around six tons per shipment average.

Q. Per shipment?

A. That is correct.

Q. Do you have any less than six tons? Twelve thousand pounds?

A. We do at times; yes.

Q. How far down do they go? How light?

A. Down to a thousand pounds.

Q. Down to a thousand pounds?

A. Yes.

Q. What is the heaviest shipment you have to one consignee?
A. A trailer will hold—I think that is about twelve thousand pounds.
Q. About twelve thousand pounds?
A. Approximately that.
Q. What kind of refrigeration do you require?
A. We require a temperature of around 36 degrees.
Q. A wet temperature?
A. We should have some moisture in the unit because if you don't have moisture in the unit you are going to draw the moisture out of your produce, which is detrimental.
Q. Is the best refrigeration a crushed ice refrigeration?
815 Wet ice?
A. Not in trucks. You can't carry enough ice.
Q. Is it not a fact that you can load a truck the same as you can load a rail car, by loading the produce to a certain percentage of the cubicle capacity of the truck and blowing crushed ice into the truck over the load?
A. Some commodities will not stand crushed ice. It ruins them.
Q. What commodities will not stand crushed ice?
A. All fresh deciduous fruits, such as peaches, pears, grapes, apples, plums, nectarines.
Q. What kind of refrigeration do you need for those?
A. We need a temperature of about 36 degrees with some moisture. You have got to have some humidity.
Q. How are they going to get the humidity?
A. We can get a milk can in the corner of the truck and set some water in it. That is all you need.
Q. Will mechanical refrigeration answer your purpose?
A. It is the best refrigeration because you can control it.
Q. On all commodities?
A. On all commodities we ship, because it can be controlled.
Q. Do you ship any lettuce?
A. We do.
Q. Can you use mechanical refrigeration on lettuce?
A. We used it very satisfactory to The Dalles this last year.
Q. Supposing that the temperature falls below 36 de-
816 grees, what happens?
A. Well, you would probably freeze it.
Q. Does it damage the lading?
A. Certainly. It is worthless if it is frozen.
Q. It is what?
A. It is worthless if it is frozen.

Q. It is worthless?
A. Yes.
Q. Can it be exposed to dry ice?
A. No.
Q. What occurs to it if it is exposed to dry ice?
A. It takes on a musty odor after it has been out of the refrigeration for a short while.
Q. Out of every hundred shipments that you ship how many of them are full truck or trailer load shipments and how many of them would be less than full truck or trailer load shipments?
A. Out of every hundred?
Q. Yes.
A. I would say 60 of them would be full.
Q. 60 of them would be full?
A. 60 percent.
Q. And 40 would be less than truckload or trailerload?
A. Yes.

Q. Do you ship any by rail?

817 A. The preponderance of our movement is by rail.

Q. And, as a matter of fact, the large preponderance of all this type of movement is by rail, is it not, but not only from your plant but others?
A. You are speaking now, of course, up into this territory?
Q. Yes.
A. That is becoming less true every day.
Q. Is there a rate consideration where shipments by rail move at less cost than by truck?
A. The cost is somewhat less when the refrigeration is taken into consideration. It isn't too much any more.
Q. Well, you pay a higher rate by truck if you do not furnish the refrigeration and a lower rate by truck if you do furnish it, do you not?
A. By truck?
Q. Yes.
A. The rate is the same with or without refrigeration.
Q. Don't you have a dual rate, a net rate and a net tare rate depending upon the furnishing of the refrigeration or ice where ice is required?
A. We don't ship anything with ice in the trucks. You mean ice in the packages? Is that what you have reference to?
Q. No; with ice on the produce.
A. No. We ship nothing with ice on the produce.

Mr. IVERS: You ship nothing. That is all.

818 Chairman TERRIL. Mr. Jennings?

Mr. JENNINGS. No questions.

Redirect examination by Mr. BEROL:

Q. I would like to ask one question. I think you indicated that 60 percent of your movement would be in truckload lots?

A. Yes, sir.

Q. How many tons or how many pounds, according to what you had in mind, would constitute a truckload lot?

A. Well, I am referring to a trailer or a truck, not both. About 12,000 pounds is about all the perishables you can put on there.

Q. So that when you say that about 60 percent moved by either a truck or a trailer load you had in mind all shipments in excess of six tons or 12,000 pounds?

A. That's right.

Mr. BEROL. I think that is all.

Mr. IVERS. Just a minute. I think it may be unfair to counsel and the witness. I purposely did not ask the witness the "percentage" of shipments. I asked him: out of every hundred shipments how many of them moved in truckload lots? He said 60 shipments out of every hundred. He wasn't speaking of percentages.

Is that right?

The WITNESS. That is correct.

819 By Mr. BEROL:

Q. It still would be 60 percent?

A. It seems that way to me.

Mr. SCHAFER. Of the number of shipments.

Chairman TERRIL. Is that all from this witness?

Mr. SCHAFER. If the Court please, I believe this witness has agreed also to appear in support of Consolidated, and if we are on this time-saving campaign it might be that I can ask about two additional questions and then we could adopt the testimony.

Further direct examination by Mr. SCHAFER:

Q. Is it a fact, Mr. Gregg, that you intend to appear to support the application of Consolidated?

A. Yes.

Q. You understood that they propose to inaugurate a second morning service to Seattle and Spokane and eastern Oregon points?

A. That is correct.

Q. And do you do any business in that part of the country?

A. Bend, Oregon, and The Dalles I believe are right on that main line.

Q. Do you deal with the Statterman Fruit Company at The Dalles?

A. Yes.

Q. Do you buy from them?

A. We have never bought any from them; no.

820 Q. If you had a second morning service from The Dalles into San Francisco, refrigerated mechanically, would there be a possibility of your making purchases in Oregon that you do not now make?

A. Certain seasons of the year; yes.

Q. Your testimony in other respects regarding preference for mechanical refrigeration, if given in the Consolidated case, would be the same as you have presently given for Oregon-Cal.?

A. Yes.

Q. You now have a second morning service from southern Idaho down into San Francisco?

A. I don't know. We don't deal in that territory at all.

Mr. SCHAFER. I think everything has been pretty well covered.

By Mr. SCHAFER:

Q. Is there anything further to add with respect to the application of Consolidated Freightways?

A. No; I don't believe so. Just the main thing is that, if we get that service to the points we serve, which in the case of the Consolidated would be The Dalles, Bend, and Spokane, why, we could do much more business up there.

Chairman TERRIL. Is there any additional cross-examination in view of this testimony?

Mr. FARRENS. Yes; one point.

Further cross-examination by Mr. FARRENS:

Q. Mr. Gregg, let us assume that both of these applications
821 are granted and that would result in each of these companies having through service instead of the interchange service now conducted by them, do I understand that you would then allocate your business by giving to Oregon-Nevada-California Fast Freight all of the business destined to Portland and points intermediate between Portland and San Francisco, and that you would give to Consolidated Freightways the business destined to points northeast of Portland and intermediate between Klamath Falls and The Dalles?

A. North and east of Portland?

Q. Yes; like Spokane, Seattle and Tacoma.

Mr. SCHAFER. Just a minute. In the hopes of saving time I tried to adopt the testimony of this witness in its entirety as an expression of a need for a better service between the points applied for. If you are now going to force him to make an election and declare in advance that he will use one carrier one way and use the other carrier the other way, then his testimony is altered considerably.

Mr. FARRENS. I think it is a fair question of this witness to find out just what is going to happen to traffic before the applications are granted.

A. I believe I could clear that up.

By Mr. FARRENS:

Q. I hope you will, Mr. Gregg.

A. At the present time we are not doing much business up there and wouldn't be doing much business up there if both applications were not allowed, for this reason: That
822 under the present set-up there is no satisfactory service to Bend, Oregon, and The Dalles, which are two point where we would ship an average of at least one truckload per week to each point, maybe two truckloads per week. Now, if Oregon-California get the right which they are seeking, they don't operate to those points anyway.

Q. That's right.

A. That business would go to Consolidated.

Q. And what would you do with the balance of the business which goes to common points at which both of them would be serving?

A. I don't believe that we would reach any such points. We would be going up to Eugene, Salem, Grants Pass into Portland over Oregon-Cal. They would not be served by Consolidated.

Q. Yes; they would be served by Consolidated.

A. Grants Pass, Salem?

Q. Yes. Consolidated proposes to continue its operation between Portland and Medford on the Pacific Highway.

A. Well, in other words, that was still going to be transferred——

Q. (Interrupting.) No. They propose to extend on into San Francisco via that route.

Exam. KEPHART. You would have both lines going from San Francisco to Portland.

By Mr. FARRENS:

Q. What I am interested in is, what are you going to do with your traffic?

A. In a case like that we would do the same that we
823 do with the rail carriers. We would feel that we should split it equitably between the two carriers. That is what we would do.

Mr. BEROL. Provided they both gave you a comparable service.

The WITNESS. That is correct.

Mr. FARRENS. That is all.

Chairman TERRIL. Is everybody satisfied now?

Mr. BEROL. I am very pleased.

By Mr. ELLIS:

Q. In the event that Pierce Auto Freight Lines gives a similar through refrigerated service or has it available at the present time, would you agree to give them their proportionate share of the business?

A. That's something that we would have to find out. We don't know Pierce yet. We have never worked with them at all.

Q. And would the same thing be true of Pacific Truck Express if they gave an equivalent service? Would you expect to share your business with them?

A. I think we would be inclined to confine our shipments to Consolidated and Oregon-Cal. because they are the ones that we have worked with, and we have been satisfied insofar as they have been able to reach the points that we are going to and the service that they were able to give. They have done the best they could. Now, I don't say that there wouldn't be some shipments that would go via Pierce or Pacific Truck because there might be at times, but we would be inclined to stick
324 with the people that we are now if they had the service that would meet our needs.

Q. Assuming that Pierce Auto Freight Lines is able to give you this week through refrigerated service to the northwest, and this case can't be decided for another four or five or six months, what would your attitude be?

A. If we were shipping, I would ship with Pierce.

Mr. BEROL. May I ask counsel if the Pierce Auto Freight Lines operates mechanically refrigerated equipment?

Mr. ELLIS. Pierce Auto Freight Lines have mechanically refrigerated equipment available now; yes.

The WITNESS. I would have to see the equipment and see what type it was before I would ship by any line.

Mr. BEROL. So would I!

By Mr. ELLIS:

Q. I think there will be an opportunity to see that equipment.

A. O. K.! Fine!

Chairman TERRIL. Now, is everybody finished with this witness?

Mr. BEROL. I think so.

Chairman TERRIL. You may step aside, Mr. Gregg.

Mr. BEROL. Thank you very much, Mr. Gregg. You have performed a double service.

(Witness excused.)

325 Mr. BEROL. I will call Mr. Robertson.

KENNETH A. ROBERTSON was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name, please?

A. Kenneth A. Robertson.

Q. And where do you reside, Mr. Robertson?

A. 984 Folsom Street.

Q. That is in San Francisco?

A. San Francisco.

Q. What is your occupation?

A. Factory superintendent.

Q. Of what company?

A. Duart Manufacturing Company.

Q. How long have you been so occupied?

A. Eight years.

Q. In your capacity as factory superintendent of your company are you familiar with its transportation problems?

A. Well, it has more or less fallen on me to see how the shipments move.

Q. Are you familiar in a general way with the application pending here?

A. Yes, sir.

Q. Do you have shipments moving from time to time to the Coos Bay area, particularly Coquille, Marshfield?

826 A. No; we don't.

Q. Do you have shipments moving from the San Francisco Bay area to points on Highway 99 north of Medford to and including Portland, including Salem, Eugene, Roseburg?

A. Just to Portland.

Q. Just to Portland?

A. Yes.

Q. Do you have any shipments moving north of Portland?

A. Yes. We have them at Seattle, Tacoma, and Spokane.

Q. Seattle, Tacoma, and Spokane?

A. Yes.

Q. What are the types of commodities that your company deals in?

A. We manufacture permanent waving equipment and hair waving solutions and toilet preparations.

Q. How frequently do you have occasion to make shipments to the points you specify?

A. Daily.

Q. What would you say would be the average size of the shipments that you move?

A. It varies. We move all the way from a hundred up to five thousand pounds daily.

Q. Daily?

A. Yes.

Q. Do you have any occasion to move any shipments south-
827 bound from that territory?

A. No; we don't.

Q. With respect to the transportation in which you are interested, do you understand that the applicant proposes a second morning delivery to Portland, Tacoma, Seattle?

A. That's right.

Q. Is time in transit a matter of any consequence to you in the shipment of your commodities?

A. Yes, sir.

Q. Why is that?

A. Well, people we sell to never keep a large enough stock on hand. So they will invariably wire in an order or phone in an order and want it shipped out the same day by the factory.

Q. Do you feel that the improvement of the service to the extent that it will give you deliveries at Tacoma and Seattle on the second morning will help you in your business to those points?

A. It will help us render a better service to our jobbers in that community.

Q. You don't ship out of Sacramento, do you?

A. No, sir.

Q. Only out of San Francisco?

A. That's right.

Q. How are you moving those shipments at the present time?

A. I should say 90 percent of them are going over Oregon-Cal.-Consolidated.

828 Q. And Consolidated?

A. Yes, sir.

Q. Do you understand that those shipments are interchanged at Medford?

A. That is what I understand.

Q. Is there any problem of handling or extra handling occasioned by interchange that is of any consequence to you?

A. As far as we have had any trouble with it; no.

Q. And your primary interest is in the question of time in transit?

A. That's right.

Q. Based upon your experience with the Oregon-Nevada-California Fast Freight, except for the infirmities in time in transit that you have mentioned, would you say that they are a reliable transportation agency?

A. Yes, sir.

Q. If the Commission authorizes the services proposed here and it is instituted, do you feel that it will be of advantage to you in your business?

A. Yes, sir.

Q. And will you use the service?

A. Yes, sir.

Q. And is it your desire that it be instituted?

A. Yes, sir.

Mr. BEROL. That is all. You may take the witness.

829 Cross-examination by Mr. ROBERTS:

Q. Do you ship any by rail or water?

A. Yes, we do; by rail and water occasionally.

Q. What proportion?

A. Well, we ship a very small proportion. The reason is that they are demanding faster service up north.

Q. Faster service?

A. Yes.

Q. And the shipments that you speak of go to Portland and points north?

A. Yes, sir.

Q. You find that the service which is being rendered now by the Oregon-California-Nevada and Consolidated is entirely satisfactory insofar as the handling is concerned, except the expedition?

A. We have found the handling satisfactory; yes, sir.

Q. Have you made any investigation as to other carrier service between these several points?

A. On occasions we shipped by another carrier, but we have never made any investigations.

Q. You have never made any investigation?

A. No.

Q. If there were this expeditious service now being used or now in vogue, would you use it?

A. Well, we are not familiar with the other carriers like we are with these two lines and, naturally, we would have to

830 get familiar with it before we would make a change.

Q. Assuming that it was a reliable service or via a reliable carrier?

A. There would be no reason why we wouldn't.

Q. There would be no reason why you would not use it?

A. No, sir.

Q. If it were available?

A. No, sir.

Mr. ROBERTS: That is all.

Chairman TERRIL: Any further cross examination?

Mr. IVES. Yes; I have some questions.

By Mr. IVERS:

Q. You stated that these dealers to whom you ship never keep a large enough stock on hand and they are always in a hurry to receive their shipments?

A. That's right.

Q. They know at the present time what the time in transit is?

A. Yes.

Q. And they are trying to cut that down, is that right?

A. That's right.

Q. Assuming that the time in transit that you are experiencing at the present time is third morning delivery to Seattle and that were reduced to second morning delivery, wouldn't your customer still be demanding or waiting until the last minute to order? You would still be in exactly the same position you are in now?

A. I couldn't answer that. I don't know if they would.

831 Q. Well now, you have been in this business long enough and dealing with that kind of people that you are dealing with. Isn't it your opinion that that would be exactly the same situation if you had second morning delivery as you have now on the third morning delivery?

Mr. BEROL: That is objected to upon the ground it is entirely speculative.

Mr. IVERS: If that is entirely speculative, then so is all his testimony that he needs this faster service.

Chairman TERRIL: Let us have an answer to the question. If the witness can answer it, let us have him say so.

A. I couldn't say.

Mr. IVERS: That is all.

Mr. BEROL: Thank you, Mr. Robertson.

(Witness excused.)

Mr. BEROL: Call Mr. Berger.

ELMER R. BERGER was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. What is your full name, Mr. Berger?

A. Elmer R. Berger.

Q. Where do you reside?

A. 140 Vale Avenue.

Q. San Francisco?

A. Yes, sir.

832 Q. What is your business or occupation?

A. Traffic manager of Bristol Myers Company.

Q. How long have you been so occupied?

A. Twelve years.

Q. And based upon your experience as traffic manager of the company, are you entirely familiar with its shipping problems?

A. I believe so.

Q. What is the commodity that your company deals in?

A. Drugs.

Q. Drugs?

A. Yes.

Q. Are you generally familiar with the nature of this application, Mr. Berger?

A. I believe so.

Q. And you understand that we are proposing a service between San Francisco Bay points which will be a through truck service north as far as Portland, Oregon, or Vancouver, Washington, and will by other carriers serve Seattle. Do you have occasion to ship between Medford and Portland.

A. Well, we ship Salem, Albany, and Eugene.

Board Member BROWN. You mean from the San Francisco Bay points?

The WITNESS. San Francisco Bay points.

Mr. BEROL. That is what I am talking about; yes.

By Mr. BEROL:

Q. How frequently do you have occasion to ship
833 to those three points?

A. Well, that just depends on how those wholesalers take it. We may have three orders a month and we may have only one. It just depends. Our business is a little different to others. We don't sell everybody. We have a minimum selling quantity and the small jobber or small retailer can't handle our quantity of merchandise. So, therefore, they have to buy through the jobbers.

Q. What is your minimum selling quantity?

A. $200.

Q. What would you say would be the average monthly weight of the shipments that you move to the three points mentioned?

A. Well, they would vary. Some of them would run five hundred pounds a piece; may run nine hundred pounds. It just depends on what they are out of and what they order. It is kind of hard to say.

Q. That is per shipment, from five hundred to nine hundred pounds?

A. Per shipment; yes.

Q. What form of transportation are you using at the present time?

A. I am using Consolidated Freightways and Oregon-Cal.

Q. And you understand that they have an interchange of lading at Medford at the present time?

A. With a delay.

Q. Is the question of interchange of lading at Medford
834 of any consequence to you?

A. Well, it is in a way. These jobbers wire in. They want an order up there right away and we want to get it to them the fastest way, because when they are out of merchandise we are losing business.

Q. And do you understand that they are receiving second day delivery at the present time?

A. Yes.

Q. Would it be of any advantage to you if they were to receive next day delivery instead of second day to these points?

A. In lots of cases it would, if they were out of our merchandise.

Q. How about the matter of handling? Is your commodity the type that is in any way suffered from the handling at Medford?

A. Well, I couldn't say because I haven't seen any claims. If there have been any claims that have come through, they have been filed with the carriers on the other end. Our claims have been practically nil in the last few years.

Q. Your primary concern, then, I take it, is the question of a faster through service to these intermediate points?

A. Yes.

Q. You also ship to Portland, do you not?

A. We ship to the whole northwest.

Q. And what means of transportation do you use on your shipments to Portland?

835 A. We use—if it is an extra rush we use truck. If not, we use rail.

Q. Do you also ship to the points between Portland and Seattle, such as Olympia, Tacome?

A. Yes, sir.

Q. Do you understand that under this application a second morning service is offered into points such as Tacoma, Olympia, and Seattle?

A. Yes.

Q. Will you speak your answer out so the reporter may get it?

A. I do.

Q. Is a second morning service to these points a service that is available to you now by present transportation facilities?

The WITNESS. Will you repeat that again, please?

Exam. KEPHART. Read it, please.

(The pending question was read by the reporter as above recorded.)

A. No; not to Portland it isn't.

By Mr. BEROL:

Q. I was referring particularly to the points north of Portland, Tacoma, Olympia, and Seattle.

A. No, they are not, because Portland, Tacoma, and Seattle, most of our shipments go by rail and they can't make that delivery.

Board Member BROWN. Will you read that answer, please?

(The answer referred to was read by the reporter as above recorded.)

836 Board Member BROWN. Thank you.

By Mr. BEROL:

Q. Do any of your shipments to Tacoma or Seattle go by truck?

A. No; they don't at the present time. The Navy Yard is about the only one that we ship by truck, because you will probably get it in the morning and they want it up in two days and you can't get it there unless you do send it express or truck line.

Q. That is at Bremerton, Washington?

A. Yes.

Mr. BEROL. I think that is all.

Cross-examination by Mr. ELLIS:

Q. As I understand it, your shipments to points Portland and north at the present time are almost entirely rail shipments?

A. The biggest majority of them are rail.

Q. Will you tell us why you use rail service to those points as compared to points south of Portland?

A. Well, for one thing we prepay all freight and it is a little cheaper to get it in there by rail than it is by truck line.

Q. Do you know what service you are getting by rail to Seattle at the present time?

A. Well, it varies. Sometimes it don't get in there until the fourth morning.

837 Q. And do you know what service you have available to you by rail at Portland at the present time?

A. Portland is supposed to be third morning. The last time I checked up on it some of them were getting third morning, some of them weren't.

Q. Do you know what service is available to you at those points by truck at the present time?

A. No; because we don't use much truck into Portland.

Q. You don't use the truck because of the rate differential between truck and rail at the present time?

A. Absolutely.

Q. Do I understand that that same differential does not exist between truck and rail rates at intermediate points?

A. I don't believe it does on account of the—there is a differential there on account of the ports.

Q. If you were able to get second morning delivery at Portland and Seattle at the present time, would that influence you to change the routing of your shipments to truck as against rail?

A. It would.

Q. Notwithstanding the difference in rates?

A. It would in cases.

Board Member BROWN. What do you mean by "cases"?

The WITNESS. Well, for a person that is—one of your jobbers who are in a hurry for a big order, we would send it by truck.

838 Board Member BROWN. How often would that happen?

The WITNESS. Well, on an average of about three times a month maybe.

By Mr. ELLIS:

Q. I take it from your answers that you are not aware of the fact that second morning delivery was available at Portland at the present time?

A. Well, I never paid much attention to it because the rail service in there the third morning was all right. We haven't had any complaints about third morning delivery so far from Portland.

Q. I take it also that you are not aware of the fact that the second morning by truck was likewise available between San Francisco Bay points and Seattle?

A. No; I wasn't aware of that.

Q. You are not expecting any faster service than that by truck, are you?

A. I don't see how they could.

Mr. ELLIS. That is all.

Mr. FARRENS. No cross.

By Mr. IVERS:

Q. Did I understand that you made shipments to Bremerton and got second morning delivery in Bremerton by truck?

A. No, no. I didn't say second morning delivery.

Q. What was your statement as to the delivery at Bremerton?

A. I said sometimes they would wire in for an order and

839 give you about three days to get it into Bremerton, and when you deal with the government they want it there on that time. If not, they go out and buy it at retail and charge you back the price on it.

Q. How did you ship that?

A. Well, I had a case last week we shipped it Oregon-Cal. I haven't heard any more whether it got there on time or not.

Q. What happened to the last previous shipment prior to this last one? How did you ship it?

A. That went in by rail from Seattle over.

Q. Have you utilized the services of the Los Angeles-Seattle Motor Express to Seattle?

A. No; I haven't.

Q. You have not?

A. No.

Q. Do you know anything about the service?

A. I have heard of them, but I have never used them.

Mr. IVERS. That is all.

Chairman TERRIL. Anything further of Mr. Berger?

Mr. BEROL. That is all. Thank you, Mr. Berger.

(Witness excused.)

Mr. BEROL. If the Board please, may I ask at this time that the record note the apearing of Marvin Handler to add to the appearance that I have made on behalf of the applicant? He is a
840 registered practitioner before the Commission. I would like to defer the questioning of the next witness to him, if I may.

Chairman TERRIL. Have you included his name on your written appearance?

Mr. BEROL. No; but we will file a separate written appearance.

Mr. HANDLER. Very well. Call Mr. Meredith, please.

Mr. ELLIS. Before the examination of this witness is commenced, we have requested for our examination presentation of certain truck logs of the Oregon-Nevada-California Fast Freight. I am wondering if the applicant may be requested to make them available to us at this time, if possible.

Board Member BROWN. I think you had better wait until Mr. Berol gets back.

Mr. HANDLER. Mr. Berol is out of the room.

Exam. KEPHART. Mr. Berol is here now.

Mr. BEROL. Yes.

Exam. KEPHART. Read Mr. Ellis' statement, Mr. Reporter.

(The statement referred to was read by the reporter as above recorded.)

Mr. BEROL. They are here present and available now, and I am handing them to Mr. Ellis at the present time.

Exam. KEPHART. That is all. The question is answered.

Chairman TERRIL. You may proceed.

841 C. BUD MEREDITH was sworn and testified as follows:

Direct examination by Mr. HANDLER:

Q. Will you state your full name, please?

A. C. Bud Meredith.

Q. Where do you reside, Mr. Meredith?
A. Sacramento.
Q. What is your business or occupation?
A. Seafood salesman.
Q. And with what firm are you employed?
A. Meredith Fish Company.
Q. How long have you been employed by that firm?
A. Quite a number of years.
Q. Where is that firm located?
A. The main office, Sacramento.
Q. What is your position with the firm?
A. Sales of seafood and sales of frosted foods.
Q. And in that capacity do you have charge of arranging the transportation?
A. Yes.
Q. And are you familiar with the transportation requirements of the firm?
A. I am.
Q. In what commodities does your company engage?
A. The production and the sales of seafood and the sales
842 of frosted foods.
Q. By "frosted" foods what particular items do you have in mind?
A. It would be every variety of fruits, vegetables, seafoods, poultry, and some of packaged meats.
Q. You have used the word "frosted" in designating those particular items. Does that mean that they are shipped in a frozen condition?
A. That means that they are quick-frozen and shipped in a frozen condition.
Q. Does that require any special equipment?
A. It requires special equipment or heavy dry ice because they must be kept frozen solid, and if they are allowed to defrost you deteriorate the quality of that product.
Q. Does your company have occasion to ship any of those commodities between the points embraced by this application? Let me withdraw that question and ask this one first: Are you familiar in a general way with the territory embraced by the present application of Oregon-Nevada-California Fast Freight?
A. Yes.
Q. And you understand that it extends the territory from Sacramento and San Francisco Bay area to points north of Medford to and including Portland, Oregon, Vancouver and Camas,
843 Washington, and the Coos Bay area, Coquille and the other points on Coos Bay, and the territory at Lakeview, Oregon?
A. Yes.

Q. Does your firm have occasion to ship these commodities you have described from Oregon to any of those points?

A. Are you speaking of frosted foods in that?

Q. Yes, we will take those first.

A. Frosted foods; yes. I would say, 90 percent of the frosted foods, which are fruits and vegetables, come out of the northwest and would come through Portland.

Chairman TERRIL. South-bound do you mean by that?

The WITNESS. South-bound and coming in at Sacramento.

By Mr. HANDLER:

Q. And what particular points in Oregon do you have in mind?

A. Now, they would be coming out of Seattle going through Portland; that is, the frosted fruits and vegetables.

Q. All originate at Seattle?

A. At Seattle.

Q. And come through Portland?

A. And come through Portland.

Q. And then down to Sacramento?

A. And then down to Sacramento.

Q. Do any of them originate at Portland.

A. One or two commodities. For instance, corn is all produced in Oregon, and some of your loganberries and boysenberries.

844 Q. And what is the volume of that shipment, the weight of each shipment?

A. That individual shipment would amount to, of the smallest in order to get your rate and also of merchandise on hand—would amount to a hundred cases, and the average around 33 pounds to a case, or 3,300 pounds your average shipment.

Q. Is that the average or the minimum?

A. That is your average—no; that's the minimum.

Q. And how high do they go?

A. They run up to around 12,000 pounds.

Q. By what means of transportation for the movement of those commodities are you using at the present time?

A. We have been using truck lines last fall and early this spring.

Q. What particular truck lines?

A. Colletti, Los Angeles-Seattle, and Cascade and Mitchell.

Q. Have those services been satisfactory?

A. No; that has proved out unsatisfactory.

Q. In what way did it prove unsatisfactory?

A. If they are hauling canned goods or bulk merchandise they can't put frosted foods in because it requires dry ice or refrigeration equipment. If they are handling fish they still can't carry

frosted foods because the case will take the odor, and most of the time on a smaller shipment they haven't the room or space to
845 take care of frosted foods. And, again, we might have to wait a period of days before they would have space, and that's a delay in shipments.

Q. You have had that actually happen?

A. We have had that actually happen, and also we have had merchandise arrive in such a condition that it was a total loss.

Q. Besides the frozen foods you have mentioned, fish is another commodity which your company handles. Do you likewise have occasion to have the fish transported between points embraced by this application?

A. Well, the fish business in our particular company, that's our main business, although this frosted food industry will amount to more than the fish business ever was. At this time that is the bulk of our shipments.

Board Member BROWN. That is, the fish business?

The WITNESS. The fish business; yes, sir.

By Mr. HANDLER:

Q. Between what points does the fish move?

A. We have fish coming out of Seattle, out of Portland, La Salle, Oregon, Toledo Bay, Newport, Oregon, or, in other words, all of the coastal production ports of Oregon and Washington.

Q. Including those on Coos Bay?

A. Yes.

Q. In what quantities does the fish move per shipment?

A. Our fish shipments—the smallest shipment would be around, oh, a ton, and our largest shipment—that is, a single ship-
846 ment of a single variety—would be around ten thousand pounds.

Q. How often do you have such movements, Mr. Meredith?

A. We have those twice a week.

Q. I believe I neglected to ask you how often you have the frosted foods movement.

A. Our frosted foods, that's pretty hard to regulate. In the past we put them in storage in the ice plant, Consumers' ice plant in Sacramento. That would take care of us for a period of probably a month. And this year that was put in over there on a consignment basis. In other words, we do not have to pay our freight. It was prepaid in and we paid for it as it was withdrawn. This year due to a better price we are buying that merchandise outright, storing it in Seattle and Portland. In that way we are getting our first month's storage paid and, therefore, we will have our own shipments come down as we need them. We think that it will come down about once a week.

Q. Is that a seasonal movement?
A. That's—no; what do you mean by "seasonal"?
Q. Do those movements continue throughout the year?
A. Yes.
Q. And you will have one once a week?
A. I will say an average of once a week.

Q. Reverting back to the fish again, what transportation
847 facilities have you used for the transportation of fish?

A. We use rail—that is, I mean, express and trucks.
Q. And what trucks?
A. Mostly Los Angeles-Seattle and some of Cascade.
Q. And have those services been satisfactory?
A. No, because if any one of those trucks have not a full load they will wait until they get a full load and then we have a delay in receiving our fish.
Q. They have not then offered you a daily service?
A. No.
Q. And have you had any difficulties by reason of combining the fish with other commodities?
A. What do you mean by that?
Q. Have they hauled straight truckloads of fish for you?
A. If they haul fish they haul straight truckloads of fish because that odor, that wet ice, that ice would go through everything else.
Q. Have you had any transportation of fish from Sacramento to any points in Oregon?
A. I think that's our main reason we would like to have the direct service from Sacramento to the north because, as you know, and most of you gentlemen here know, there is a war in Europe and this river here, which you can verify by the California Fish and Game Commission check-up, produces around three million and a half pounds of salmon a year.

848 Q. Is that the Sacramento River?

A. That is the Sacramento River. And formerly that salmon was shipped, what they call, "mild cure" and shipped to New York and exported to Europe. Now we have had to find a new market for that fish, and we have found it. It is going into the canneries, and it is very essential in fish—that is, fresh fish—it must be packed in a box and delivered as soon as possible.

Board Member BROWN. You mean you send it to the canneries first?

The WITNESS. Yes. It is going into the canneries in Oregon.

By Mr. HANDLER:

Q. Can you explain that a little bit for the benefit of the Board as to how that happens?

A. Well, formerly the Sacramento River salmon—most people in California don't even know that we produce enough salmon in California to take care of our needs. But some in the California Bureau of Fisheries claim that this fish here is better than any kind of salmon produced on this Coast, and then there is a matter of opinion as regards the Columbia River And this River here has always produced its fish for mild cure or the fresh market and they never had occasion to find an outlet for it in the canning market. All along this Coast, even your San Francisco labor trouble here, you will notice that none of your boats went to
849 Alaska this year. That was because of the labor dispute, and at the same time the run didn't show up. So it was a good thing they didn't go, and the canneries in Oregon and Washington are just clamoring for salmon and we have found, fortunately, an outlet in the Oregon canneries for everything we produce.

Chairman TERRIL. Is there no cannery available in California?

The WITNESS. Not for the canning of salmon, no. Their facilities are set up for sardines and other fish, and it would require quite a bit of expense to change them over.

By Mr. HANDLER:

Q. Do you have a definite contract with canneries in Oregon?

A. We have a definite contract this time for every bit of salmon that we can produce, and we expect to produce between three hundred and three hundred and fifty thousand pounds within the next 45 days.

Q. Do you know what transportation facility you will use for that movement?

A. We know what we will use, but we know what we would like to use.

Q. What would you like to use?

A. We would like to use the most direct service without the use of transferring, rehandling or reboxing or reicing.

Board Member BROWN. What will you use?

The WITNESS. We will use California-Oregon if we can get it.

850 By Mr. HANDLER:

Q. That would require an interchange now at Medford, Oregon?

A. It would require an interchange at Portland.

Q. It would require an interchange at Portland and at Medford?

A. Under your present setup at Medford; yes.

Q. You would like to have a direct service?

A. A direct service.

Q. Such as is here proposed?

A. Right.

Q. Does rehandling have any bad effect upon the fish in transit?

A. It does on fish. When you pack fish in a box you ice the bottom. I am going into this so that you can see how fish is packed. They generally put a layer of ice, lay the fish with the backs down, fill the bellies and re-ice the fish. The more you re-ice that fish, unless it is handled by experienced fishermen, they will use larger chunks of ice and that ice has a tendency to break the bellies and the skins, and the less you handle them—in other words, if it can be delivered in its original ice it would arrive in a lot better condition. You would have a number one fish.

Q. Is time in transit a matter of importance to you, Mr. Meredith, in transportation of fish and frosted foods?

A. It is in regards to fish because the longer it is away from its source of use, your moisture and your vitamins and your goodness leaks out and your fish becomes soft and mushy.

851 Q. How about with respect to frosted foods?

A. If frosted foods are kept under the proper refrigeration, kept at a freezing temperature, time wouldn't mean so much; that is, if you didn't require that merchandise immediately. But in our case where we have limited storage for frosted foods in our own plant, the time means quite a bit.

Q. You understand that under this application service will be expedited to both Portland and from Portland and between the Coos Bay area and the other Oregon points to Sacramento?

A. Yes.

Q. That would be a matter of great convenience to you?

A. It would be very convenient to us.

Q. At the present time do you have any movements to Lakeview, Oregon?

A. No, not to Lakeview.

Q. Do you believe that if this application were granted you could then market any of your commodities there?

A. What else would Lakeview include? What other towns?

Q. All intermediate points on Highway 395.

Board Member BROWN. Do you mean all intermediate points?

Mr. HANDLER. Between Sacramento—well, it is in Oregon.

Exam. KEPHART. It is all intrastate service practically.

By Mr. HANDLER:

852 Q. That is the only point between the Oregon border and Lakeview, Mr. Meredith.

A. Would that come around through Alturas or go up through Alturas?

Board Member BROWN. But that is not involved in this application.

By Mr. HANDLER:

Q. Just Lakeview, Oregon, would be the only point involved.

A. It is possible that it might open a new market for us in regards to retail trade.

Q. If such a new market could be opened up would you like to have it?

A. Very much so. We are all open for new business.

Mr. HANDLER. That is all.

Chairman TERRIL. Mr. Meredith, do you anticipate that you are going to handle this salmon movement to Oregon this year?

The WITNESS. We are definitely.

Chairman TERRIL. Under what means of transportation?

The WITNESS. We will probably have to move it by express because I don't believe there is any direct truck service out of Sacramento.

Chairman TERRIL. Where is your delivery point in Oregon?

The WITNESS. It would be Astoria.

Board Member BROWN. You mean you are shipping salmon to Astoria?

853 The WITNESS. We are shipping salmon to Astoria, believe it or not.

Exam. KEPHART. When will it start?

The WITNESS. The season opened midnight of the first. They went on a strike on the morning of the second, but we came to an agreement last night, so they are shipping today.

Exam. KEPHART. How long will it last?

The WITNESS. It will last until the 15th of September.

Exam. KEPHART. Providing you don't have another strike.

The WITNESS. Well, when the contract is signed on this river they generally continue on. It is a CIO union.

Board Member BROWN. I have certainly learned something about our California industry.

The WITNESS. Yes. There is quite a bit of this fishing industry in California, more than just the sardines and a few other things.

Cross-examination by Mr. FARRENS:

Q. I am not sure I understood some of your testimony. Are you under the impression that the Columbia River canneries ever take so much as a pound of salmon for canning that was caught in Alaska?

A. The Columbia River canneries? You mean by shipping salmon out of Alaska to the Columbia?

Q. Yes.

A. I couldn't answer that question, but I don't believe they do.

854 Q. I thought I must have misunderstood your testimony. What relation, then, does the need of an Astoria cannery have to the question of a strike or failure of fishing in Alaska?

A. Because your Alaskan canneries are not packing and there will be a great demand for any kind of canned salmon at any place, and being that the run has been a failure on the Columbia River and along the Oregon coast, even the California coast today with your Monterey fishing, Bodega Bay—they stopped fishing for salmon and started fishing for sharks because no salmon showed up. So any salmon that they can get at any place will be in demand. That is why they are after this fish.

Board Member BROWN. Are they shipping that fresh into those canneries?

The WITNESS. Yes. They can very little frozen salmon, only in great emergencies.

By Mr. FARRENS:

Q. Well, there has been no failure of run in the Columbia River itself, has there?

A. Yes, this year, this season. There has been no production to amount to anything. They are a way, way short. Why do you think that they would want this fish if they had a normal production? They wouldn't.

Q. Well, isn't it perhaps a question of a short closed season up there during which you are able to ship up?

855 A. No. There wasn't a closed or a short season. The fish just didn't show up. We have the same thing in the fish industry that, you know, you have in fruits. You have a bum season and you have a good season.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. Did I understand that you are shipping this fresh fish to Astoria?

A. Right.

Q. Is it your understanding that this applicant proposes to run a through service to Astoria?

A. No.

Q. Well, then——

A. (Interrupting.) To Portland.

Q. Did I understand you to say that this fresh fish would not stand rehandling?

A. What do you mean by would not stand rehandling?

Q. Weren't you complaining about the fact that it had been rehandled on this Medford transit?

A. Yes; but by shipping direct from Sacramento to Portland, taking it out of their truck or else running their truck on by arrangement, that extra 50 miles would only be a matter of an hour or an hour and a half or two hours.

Board Member BROWN. It is over a hundred miles to Astoria, is it not?

The WITNESS. Whatever it might be. I am not familiar
856 with the mileage in Oregon.

By Mr. IVERS:

Q. Wouldn't the delay in the interchange of Portland or the rehandling there have exactly the same effect on the fish as rehandling it at Medford?

A. You would have to rehandle it again at Portland, wouldn't you?

Q. I understand that at the present time Consolidated Freightways does serve Astoria.

Mr. BEROL. I think that in all fairness the witness ought to be told that a carrier witness testified in Oregon that when occasion justified arrangements would be made for operation of through equipment between Portland and Astoria.

Mr. IVERS. Are you through with your statement?

Mr. BEROL. Yes.

By Mr. IVERS:

Q. Would the rehandling at Portland have the same effect on the fish as rehandling it at Medford?

A. Well, now, no. There would be a difference because in rehandling at Medford, when you rehandle the fish you would shake the ice away from the bellies and away from the sides, and from Medford to Portland that fish would have less ice on it. In rehandling it in Portland and transferring on to Astoria you would also shake the ice away, but there would be less time from Portland to Astoria that that fish would have that less ice on it.

Q. It already would have less ice on it when it arrived
857 at Portland than it would have at Medford.

A. No.

Q. So you would have less ice on it to begin with, naturally, when you started to rehandle it?

A. Yes. But when you take two pieces of ice and throw that together so that you have your ice in contact with the cold body of the fish, your ice would last much longer. In other words, this fish business is for fishmen.

Board Member BROWN. And not for fishermen?

The WITNESS. And not for fishermen.

By Mr. IVERS:

Q. You will have less ice on the fish when it arrives at Portland than you would have at Medford, would you not, to begin with?

A. Yes: that is natural. That would be natural meltage and shrinkage.

Q. So that when you did rehandle it at Portland you would rehandle it with less ice already on it?

A. Than at Medford?

Q. Than at Medford.

A. Yes.

Q. And wouldn't the difference in the shaking up be equalized by the difference in the amount of ice you started out with?

A. I don't believe it would.

Q. You don't think so?

A. No. I'll tell you why.

858 Q. Wait a minute.

A. I'll tell you why.

Q. Just a minute. Just answer the question.

Mr. BEROL. I think the witness is entitled to explain his answer, that is all he is attempting to do.

Chairman TERRILL. All right. Go ahead and complete your answer.

A. (Continuing.) We operate now our own refrigerated trucks that we sell from door to door from Sacramento to Medford, both sides of the Valley, including Patterson, Los Banos, and back in through Sacramento again. We also operate our own refrigerated fish trucks selling from door to door up to Red Bluff, back through the center and back to Sacramento. And I know this from experience because three o'clock tomorrow I leave on a run myself into Lake Tahoe area. And if you have a box of fish on that truck that is iced, if you don't disturb that box you'll take back a great deal of that ice that is on that fish. But if you break into that box and take out a fish, then your meltage takes place when you disturb that ice or that crust. I know that from experience.

By Mr. IVERS:

Q. Do you think that rehandling fish at an interchange point is equivalent to breaking open a box and taking the fish out of it?

A. A 200-pound box, you can't handle it in your arms. You can't handle it delicately. You have got to let it drop.

859 Board Member BROWN: Can you answer the question?

By Mr. IVERS:

Q. Can you answer the question?

A. What is that again, please?

Q. Would the rehandling of the fish at an interchange point be equivalent to breaking the fish box and taking the fish out in its effect upon the package?

A. I would have to explain that.

Chairman TERRIL. Do you get the question?

The WITNESS. He asked if the rehandling of fish——

Board Member BROWN [interrupting]. Read the question to him, Mr. Reporter, please.

(The question referred to was read by the reporter as above recorded.)

The WITNESS. I believe it would.

By Mr. IVERS:

Q. You believe it would?

A. Yes.

Q. If you had a box of fish in the truck, the truck traveling along the road, and if the truck fell into a chunk hole would that damage the box of fish?

A. No.

Q. With icing on it?

A. No.

Q. It wouldn't?

A. No.

Q. Why not?

860 A. Because you are packed solid.

Q. Well, isn't it packed also when you interchange it?

A. No. I tried to explain that in interchanging you are transferring the box out of the truck. A 200-pound box of fish——can I explain this, please?

Chairman TERRIL. Go ahead.

A. (Continuing.) A 200-pound box of fish is about this long [illustrating].

Board Member BROWN. That doesn't mean anything on the record.

A. (Continuing.) Four feet. This [indicating] isn't a fish. Say four feet, about two feet wide, about twelve to fourteen inches deep. And when you pick a box up normally packed in an express truck or in a freight truck, these boxes are packed solid. Normally, when you pick a box up by the end, the belly of that box bows out your ice, breaks through, and in throwing that box into a truck you have more action; your fish is going down to one end, jamming down, and picking up the box the other way it jams down the other way. You are crushing your ice into smaller pieces and causing a greater meltage.

By Mr. IVERS:

Q. And you don't think that that would happen to a box of fish in the course of transit if the truck were jolted?

A. Not if it was packed properly; no.

861 Q. Not if the fish were packed properly?

A. Not if the fish were packed properly. I mean, if the boxes in the truck are packed properly.

Q. I see. Have you been shipping any fish packed as you indicated over the Oregon-Nevada-California-Consolidated Service?

A. We have into Nevada points.

Q. Have you into Oregon points?

A. Not into Oregon points.

Q. Have you received any fish fresh packed from Oregon points at your place in Sacramento via the service?

A. Yes.

Q. What has been the condition of that fish?

A. In arriving?

Q. Yes.

A. In very, very good condition.

Q. Very good condition?

A. We are perfectly satisfied with their service.

Q. As it is operated at the present time?

A. Yes.

Q. About these frozen fruits, what about interchange on frozen fruits and vegetables? Does that damage them?

A. No; that wouldn't damage them if there was an interchange on that providing the conditions of one carrier to the other were the same.

Q. So that that interchange is perfectly satisfactory to

862 you on frosted fruits and vegetables?

A. Yes. If both trucks were at a good freezing temperature that wouldn't be any loss or breakdown at all there.

Q. Have you received any frosted or frozen fruits and vegetables via the Consolidated-O. N. C. service, joint service from points north of Medford?

A. No.

Q. You have not?

A. No.

Q. Now, you want a second morning delivery out of Seattle into Sacramento and vice versa?

A. Uh-huh [affirmative].

Q. What time of the morning does it have to arrive to be of any benefit to you at Sacramento?

A. We have our shipments that come out of Seattle and Portland so that they would arrive here by six o'clock on Monday.

Q. Six o'clock on Monday?

A. Then our second shipment should arrive here by six o'clock on Wednesday.

Q. Six o'clock A. M.?

A. It must be here by 6 A. M., Monday morning.

Q. Are you getting that service now?

A. We are getting that service by express now.

Q. How are you receiving your frosted fruits and vegetables from points in Washington at the present time?

863 A. Well, I said that we formerly——

Q. (Interrupting.) No; I mean at the present time; now.

A. At the present time our shipments are going in to Consumers' Ice Company. They are paying express or freight and we are withdrawing as we want them. In other words, it is up to them to get the merchandise down here.

Q. How are they shipping it down?

A. But in the future we will have to depend upon our own shipments.

Q. How is Consumers' Ice sending it down here at the present time?

A. It has been coming down by Colletti.

Q. Has it been coming down by the Los Angeles-Seattle Motor Express?

A. Not the last two or three months.

Q. When it was coming by the Los Angeles-Seattle Motor Express was their service satisfactory?

A. It was not.

Q. What was wrong with their service?

A. We couldn't get fast enough service. In other words, they didn't have the available space at all times.

Q. On what size shipments?

A. Oh, shipments of twenty-five, fifty, or a hundred cases.

Q. Weighing how much each?

A. Weighing, say, thirty-three-pound average to a case.

864 A hundred cases would be 3,300 pounds.

Q. And who was routing those shipments?

A. The S. A. Moffitt Company, Seattle.

Q. Did you complain to the S. A. Moffitt Company in Seattle?

A. Yes.

Q. Did they change the routing on them?

A. Yes.

Q. And to whom did they change the routing?

A. Some of it the Cascade, Mitchell and a few of them Colletti sent in.

Q. Did you complain to the Los Angeles-Seattle Motor Express?

A. No.

Q. You had no complaint against them except that they didn't have the space available?

A. It is not our merchandise, and if it is not delivered in good condition that is between the S. A. Moffitt Company and the shipper and not us—the carrier, I mean.

Q. Was it delivered in good condition?

A. From whom?

Q. From the Los-Angeles-Seattle Motor Express?

A. Not at all times; no.

Q. What was the matter with the lading?

A. Most of their frosted foods came down with the fish.

Q. Do you mean in the same——

Board Member BROWN (interrupting). Who do you mean
865 by "their" frosted foods?

The WITNESS. I would say that any shipment we had come down, it came down in with the wet fish.

Chairman TERRIL. By what carrier?

The WITNESS. By Los Angeles-Seattle, or Seattle-Los Angeles.

By Mr. IVERS:

Q. In the same compartment with wet fish?

A. Yes, with a blanket and your dry ice.

Q. And what happened to the frosted foods then?

A. It come down in a thawed-out condition. But if it wasn't in a thawed-out condition it would wet the cartons, and in wetting the cartons, if that thawed out and you delivered that carton to the retailer, you would have a fish odor.

Q. Did you ever file a claim?

A. Not with the carrier; no.

Q. Did you ever file a claim or reject a shipment?

A. Yes, we rejected one of Mitchell's and——

Q. (Interrupting.) I am talking about Los Angeles-Seattle Motor Express.

A. Not of Los Angeles-Seattle Motor Express. We didn't reject it. We left it at the Consumers' Ice and let the S. A. Moffitt Company do the work.

Q. Did you ever make a claim against the S. A. Moffitt Company for a refund on any part of the merchandise?

A. No; we didn't have to because it wasn't our merchan-
866 dise until we took possession of it.

Q. When you did take possession of it did you get any credit for the merchandise?

A. No; because before we get any merchandise in our plant we—we inspect it.

Q. Did you ever turn any merchandise back to the S. A. Moffitt express?

A. No.

Q. How did you send it back to——

A. (Interrupting.) Let me explain it. This merchandise is shipped into the Consumers' Ice Company to the account of the S. A. Moffitt Company with the Meredith Fish Company the right to withdraw it. Before that merchandise is accepted into the Consumers' Ice Company there is a man over there that accepts and inspects that merchandise, and he would put on it how arrived right on the billing sheet, wheher it was defrosted or wet box or whether it was in a frozen condition. Now, when that slip comes in I get a copy of it, the S. A. Moffitt Company would get a copy of it. If he told me that that merchandise was soft and thawed out I have nothing more to do with it. It can stay over there a hundred years and I would never use it. And what the S. A. Moffitt Company does with it is none of my business.

Q. Do you know what time the fish that is shipped out of Seattle to you is packed and loaded and ready to leave
867 Seattle? I am talking now about the fishmen that pack them and have them available for shipping.

A. Well now, are you familiar with the operation of the Seattle Fish Exchange?

Q. I am just asking you if you know what time they are available for movement.

A. Yes.

Q. What time?

A. It must be between 12:00 and 4:00 o'clock.

Chairman TERREL. A. M.?

The WITNESS. Between 12:00 noon and 4:00 P. M.

By Mr. IVERS:

Q. And all that is ready at that time is put on the express cars, is it?

A. That's right.

Q. The express car leaves there at 4:20 in the afternoon?

A. I am not sure; about that time.

Q. About that time?

A. Just about.

Q. Now then, after that, trucks are loaded after that time, are they not?

A. They could be loaded after that time or before it.

Q. Well, do you know what the practice is up there of loading trucks out?

A. You mean on the day and the time?

Q. The time of day; yes.

868 A. That would be all loaded after 12:00 noon.

Q. Does Dudley Turncliff of your company control the routings?

A. Dudley Turncliff is not interested in our company in any way whatsoever.

Q. He is not?

A. No, sir. His brother Lloyd is, but not Dudley Turncliff.

Q. All right, Lloyd Turncliff. Does he control the routings?

A. He doesn't control it entirely; no.

Q. Well, to what extent does he control it?

A. He has the authority to have anything shipped by any carrier, and I am here in his place as he happens to be opening up another plant today.

Mr. IVERS. That is all.

Chairman TERRIL. Any further cross-examination of this witness?

Mr. JENNINGS. Yes, please.

By Mr. JENNINGS:

Q. Mr. Meredith, did I understand you to say that you get shipments via Cascade Fast Freight?

A. I believe we had fish shipments last fall from Cascade.

Q. Fish.

A. Last fall.

Q. Where from?

A. From Seattle.

Q. How did they leave Seattle?

A. Now, I am not familiar with that shipment, but I
869 believe it had been cooled at the Washington Fish and Oyster.

Q. Are you reasonably sure that that is Cascade?

A. I am pretty sure it was Cascade.

Q. You wouldn't have it confused with California Northwest, would you?

A. No; I don't believe so. That brings another carrier into the picture. We have had shipments by him also.

Q. It happens to be the same personnel, which I thought possibly confused you; personnel that formerly was with Cascade. Has Cascade handled any berries for you?

A. Not to my knowledge.

Q. Have you ever at any time offered Cascade any freight that they couldn't handle?

A. No; I have not personally.

Q. Do you know of anyone who has?

A. In the firm?

Q. Yes.

A. I couldn't answer that.

Q. You never heard of anyone offering Cascade any freight that they couldn't handle?

A. I couldn't answer that because I don't know.

Q. You have never heard of it?

A. What do you mean?

Chairman TERRIL. The witness says he doesn't know, Mr. Jennings.

870 Exam. KEPHART. It would be hearsay.

Mr. JENNINGS. He gave the impression in his testimony a while ago that freight had been offered and there wasn't any room for it.

The WITNESS. I believe if Cascade was satisfactory we would have continued on with it rather than change to some other carrier.

By Mr. JENNINGS:

Q. This situation to the effect of shipment of fish north, how often has that happened in the past?

A. You mean we expect a shipment going from Sacramento to the north?

Q. Yes.

A. That has just arisen up now.

Q. This is the first time?

A. Yes.

Q. Do you expect it will ever happen again?

A. Yes.

Q. You have reason to believe that that will be a continuing practice from now on?

A. Yes.

Q. From year to year?

A. We do; absolutely.

Q. On what do you base that?

A. We base that on because at this particular time we are helping out a cannery up there and we helped him out this

871 spring, and we feel sure that after we get the quality of our fish in the can there is going to be a demand for it, and when there is a demand for it you are going to have a sale for it, there is going to be a movement.

Q. You expect on the basis of the emergency that exists this year to establish a continuing practice?

A. We do. We do.

Q. Do you have any reason to believe that the Oregon-Nevada-California Fast Freight will be able to handle shipments of fish, berries and other commodities on the same day to any better advantage than any other truck operator can handle it?

A. If the service is equal and the schedule is equal I don't see why both of them wouldn't be the same, if everything is equal.

Q. It would be the same as everybody else?

A. If everything was equal.

Chairman TERRIL. Is that all of this witness?

Mr. ROBERTS. I would like to ask him a question, if I may.

Mr. IVERS. There is one question that Mr. Jennings has.

By Mr. JENNINGS:

Q. Mr. Meredith, if this fish does prove as popular as you anticipate, wouldn't it be feasible to establish a cannery nearer the source of supply?

Mr. BEROL. I will object to that as being entirely speculative.

872 A. I will tell you——

Mr. BEROL (interrupting). Just a minute.

A. (Continuing.) I believe about 40 years ago——

Board Member BROWN (interrupting.) I think the answer would be obvious. Why go into that?

Exam. KEPHART. That is beyond the scope of the case anyway, Mr. Jennings.

Mr. IVERS. No. I think the testimony is that it would keep on a continuous movement up to Astoria.

The WITNESS. Do you want me to answer the question? I can answer it.

Chairman TERRIL. No, it is not material to this record.

Mr. ROBERTS. I would like to ask him a question, if I may.

By Mr. ROBERTS:

Q. Mr. Meredith, as I understand, what you want to avoid is a rehandling of fish?

A. That's right.

Q. If you had available to you through the medium of this applicant through trailer service from Sacramento into Portland, which will not necessitate the rehandling at Medford, that would meet your requirements?

A. That's right.

Q. And your tonnage as you anticipate is going to be sufficient to fill a trailerload, is that right?

A. That's right.

873 Mr. ROBERTS. I think that is all.

By Mr. FARRENS:

Q. I just want to ask you, What is the species of salmon which you are catching in the Sacramento River and shipping to Astoria?

A. It is called a Chinook, and sometimes they are called a Spring salmon.

Q. Are they ever called a Chum?

A. No; they are never called a Chum.

Chairman TERRIL. Do you think that has any benefit to this record, Mr. Farrens?

Mr. FARRENS. Well, I do; yes. I don't know how you feel about it.

Chairman TERRIL. Are you through with this witness?

Mr. BEROL. We are, if all protestants are.

Chairman TERRIL. All right. You may step aside. Thank you very much.

(Witness excused.)

Chairman TERRIL. Off the record.

(Remarks outside the record.)

Mr. BEROL. Let me suggest this: We have Mr. Hahn, and he is anxious to get away. I have a witness here from Sacramento who, likewise, is anxious to get way. I do not wish to hold him overnight. I can be very brief with both of them, making no comments or guarantees for the protestants, however.

874 Exam. KEPHART. Where is Mr. Hahn from?

Mr. BEROL. He is from San Francisco, but he informs us that he cannot come back.

Exam. KEPHART. Would their testimony be sufficiently similar to have one follow the other and possibly stipulate

Mr. BEROL. No; I think not. They present a different situation. But, as I say, it will be very brief.

Mr. Hahn, will you take the stand, please?

CHESTER B. HAHN was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Mr. Hahn, what is your full name, please?

A. Chester B. Hahn.

Q. You reside where?

A. San Francisco.

Q. What is your business?

A. Wholesale calf dealers.

Q. Do you have occasion to transport dressed calves between San Francisco and Portland?

A. Yes.

Q. South-bound?

A. Yes.

Q. How frequently?

A. Twice a week.

Q. What is the weight per shipment?

875 A. About fourteen to fifteen thousand pounds.

Q. How long have you been conducting such transportation?

A. A little over a year.

Q. How are they moving at the present time?

A. Moving by Oregon-California Fast Freight.

Q. Do they move under a through trailer from Portland?

A. They do.

Q. You are familiar with the application that is pending here, are you not?

A. Yes.

Q. What is your primary interest in the proposal of this applicant?

A. We want to retain the service of having calves delivered without being moved at any time from the equipment they are placed in at the slaughter house in Portland until the time they are unloaded in our plant here in San Francisco.

Q. How about the time of delivery to your plant?

A. Well, they are delivered at present a few hours too late to be sold the same day that they are received.

Q. What time are they delivered at present?

A. Well, approximately ten to eleven o'clock.

Q. Is it your understanding that under the application you will be able to receive them earlier?

A. It is my understanding we will receive them at the same time we receive other shipments: At 6:00 o'clock in the
876 morning, at the time they are supposed to be received and offered for sale.

Q. What assistance will that be to you in the conduct of your business?

A. It will allow us to sell the calves the same day they are received instead of being held the following day.

Q. Is that a matter of some importance to you?

A. Yes. It would be of considerable saving to us and saving to the people that finally eat the meat.

Q. Are you desirous of having this applicant offer the service that he does offer?

A. Very desirous.

Mr. BEROL. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. Do you know where the delay occurs in connection with the present shipments via this applicant and the Consolidated?

A. Time is lost at Medford, Oregon.

Q. Do you know who is responsible for that loss in time at Medford?

A. I believe it is in changing of one tractor that pulls the trailer to another at Medford.

Q. Do you know what the time lost at Medford is at the present time?

A. Oh; somewhere in the neighborhood of four or five
877 hours, I believe.

Q. Do you mean by that that the O. N. C. permits your freight to stand in Medford for four or five hours after arrival before moving it on to San Francisco?

A. That's what they have been telling us. The drivers have told me that occasionally they lost time up there to make proper connections or some such trouble.

Q. It would help your situation very much, would it not, if the applicant would speed up his service and pick up the freight as soon as it arrived?

A. If we could receive it here at six o'clock in the morning, that's what we are interested in having.

Q. Are you using at the present time the through trailer service?

A. Through trailer.

Q. Which this applicant provides?

A. Which this applicant provides.

Q. And your shipments are not transferred en route at the present time?

A. They are not. We couldn't allow it.

Q. Then the only suggestion you have to make here is that the elimination of this delay in transfer at Medford would be of substantial assistance?

A. Right.

Mr. ELLIS That is all.

878 Mr. FARRENS. No cross-examination.

Mr. IVERS. No cross-examination.

Mr. JENNINGS. No cross.

Chairman TERRILL. That is all.

Mr. BEROL. Thank you, Mr. Hahn.

(Witness excused.)

Mr. BEROL. Call Mr. Rowe.

HARRY G. ROWE was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name for the record?

A. Harry G. Rowe.

Q. You reside in Sacramento?

A. Yes, sir.

Q. What is your business?

A. I am traffic manager for Thompson-Dix Company.

Q. And that is located in Sacramento?

A. Yes, sir.

Q. What is the nature of the business of Thompson-Dix Company?

A. Wholesale hardware.

Q. And as traffic manager you are familiar with the shipping problems in your company?

A. Yes, sir.

Q. Are you aware that the applicant is proposing a
879 service between Sacramento and Lakeview?

A. Yes, sir.

Q. Among other places?

A. Yes, sir.

Q. Do you in the conduct of your business have occasion to move shipments to Lakeview?

A. Yes; sir.

Q. What services are available to you at the present time between Sacramento and Lakeview?

A. The Southern Pacific Company and the Oregon-Cal. to Klamath Falls, and the Consolidated.

Q. What is the time in transit by the Southern Pacific Company?

A. It takes them a third day to get there.

Q. What is the time in transit by the combination of Oregon-Nevada-California Fast Freight and Consolidated?

A. Delivery the second morning.

Q. Do you understand that under the proposal the applicant proposes to make delivery the second day?

A. Yes.

Q. Early in the afternoon?

A. Yes.

Q. Do you believe that the present facilities between Sacramento and Lakeview are sufficient or not sufficient to your needs?

880 A. The two services are O. K.

Q. You say the two existing services are O. K. You mean a through service such as is proposed here?

A. Yes, sir.

Q. Do you feel that you need the kind of a through service that is proposed here for the conduct of your business?

A. Yes, sir.

Q. And if it is instituted by the applicant will you use it?

A. I sure would.

Q. And do you feel that it would be of an assistance to you in the conduct of your business?

A. It would help us a lot.

Q. Will you elaborate on that just a little bit, please?

A. Well, the hardware merchant today, why, buys from hand to mouth. He carries no particular large stock and he is out of everything and he orders every day pretty near, and he wants it right away. He can't wait a week for it. He can't wait two or three days for it. He wants it right now.

Q. How frequently do you make shipments between Sacramento and Lakeview?

A. I imagine every day.

Q. What would be the average weight of the usual size?

A. It is hard to guess. It runs anywhere from a minimum to a carload.

Q. From a minimum to a carload?

881 A. Yes.

Q. And you ship every day?

A. Practically every day; yes, sir.

Mr. BEROL. That is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. Do you receive most of your orders by mail from Lakeview merchants?

A. Most of them by mail; yes, sir.

Q. Do you know how long that mail service takes?

A. It is about the second—if it was mailed it today we ought to have that the day after tomorrow in the morning.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. You testified in favor of other truck applicants in cases like this, have you?

A. Have I?

Q. Yes.

A. Oh, yes.

Q. Can you tell me on behalf of whom you have testified here before?

A. For whom?

Mr. FARRENS. Yes.

Mr. BEROL. I will object to that upon the ground it is incompetent, irrelevant, and immaterial; outside of the issues here.

882 Mr. FARRENS. It is a prelimiary question. I will accept the Board's ruling.

Mr. BEROL. I have objected to the question upon the ground that it is incompetent, irrelevant, and immaterial and has no bearing on these issues, to require this witness to go through his past history as to on whose behalf he has testified.

Board Member BROWN. Read the question, please.

(The pending question was read by the reporter as above recorded.)

Board Member BROWN. The objection is overruled.

Mr. BEROL. Now, may I ask if the basis of the overruling of the objection is predicated on the assumption that the question involves applications over the same territories or any territories? I don't know yet what the question means.

Board Member BROWN. Over the same territory, I presume.

Mr. BEROL. I take it, then, that the question is confined to that?

Board Member BROWN. Yes.

Mr. FARRENS. No; I didn't so confine my question, Mr. Brown. This is merely a preliminary question.

Mr. BEROL. Then I will ask that the Board——

Board Member BROWN (interrupting). Let me ask the purpose of the question, then.

Mr. FARRENS. I was wanting to ask that question on a preliminary matter before asking the witness his attitude in
883 general with respect to increases in truck lines in this section.

It has been my impression that the witness' face is familiar, that I have seen him in court on a number of cases, always in favor of the applicant in these truck hearings.

Mr. BEROL. God bless him if that is a fact!

Mr. FARRENS. I assume that he would very freely tell me that he had been in a half or dozen or so of these cases and that his attitude was that everyone of these applications ought to be granted. Maybe I am wrong.

Board Member BROWN. The objection is overruled.

The WITNESS. Do you wish an answer?

Mr. FARRENS. Yes; please.

The WITNESS. Whom have I appeared for?

Mr. FARRENS. Yes.

A. Well, I think the last one happened to be for Ralph Spear on an Alturas application.

Mr. BEROL. Intrastate?

The WITNESS. No, sir; interstate—intrastate.

Mr. BEROL. I take it counsel's question is applicable only to interstate.

The WITNESS. I think I appeared on that Corning Truck Line, Ralph Mullins, for an application into Redding. I think I appeared for the United Motor Transport at some time or other.

884 By Mr. FARRENS:

Q. Did you appear for H. P. Armour also?

A. Who?

Q. H. P. Armour?

A. No; no, sir.

Q. Did you appear for Modoc Express?

A. No; sir.

Q. Well now, Mr. Rowe, is it your view that the more truck service you have the better off the public will be without regard to existing service or the effect which a new operation might have on the ability of the existing service to continue to operate?

A. Well, I don't like to see too many trucks in any one territory. Is that what you mean?

Q. Yes. Do you appreciate that by backing so many truck applications up into this territory in general that you may have so much service that you will get no good service out of any of them?

A. No; I don't agree with that.

Q. You don't agree with that?

A. No.

Mr. FARRENS. That is all.

Board Member BROWN. Wait a minute. I don't think the witness understood your question, Mr. Farrens.

Mr. FARRENS. I didn't mean to be unfair with him. I thought he did.

885 Board Member BROWN. I really don't think he did.

Read the question and answer, Mr. Reporter.

(The question and answer referred to were read by the reporter as above recorded.)

Board Member BROWN. What don't you agree with?

The WITNESS. I don't agree in having too many truck lines, too many service in any town.

By Mr. FARRENS:

Q. Did you give that any consideration or take that into consideration as to the effect which the granting of this application into the Lakeview territory might have on the rail and present truck service you are enjoying?

A. It would be one good truck service against a poor rail service right now.

Q. If any freight should be taken away so as to deprive the public of the rail service entirely would you regard that as desirable?

Mr. BEROL. Now, just a minute. I will object to the question upon the ground that it assumes facts not in evidence; entirely speculative; calling for conclusion of the witness.

Board Member BROWN. Read the question, Mr. Reporter.

(The question was read by the reporter as above recorded.)

A. Why, no.

By Mr. FARRENS:

Q. And I suppose if it either destroyed or cut down the

886 number of schedules available between Klamath Falls and

Lakeview, which forms a part of the present truck service, would you regard that as desirable?

Mr. Berol. Just a minute. The same objection. I will ask for a ruling.

Board Member Brown. If it affects the present truck service?

Mr. Farrens. Yes.

Mr. Berol. Just a minute. I have an objection pending.

Chairman Terril. The objection is overruled.

A. Well, I assume that if these people get their application approved that the joint arrangement with them and the Consolidated will be cut out, so there would only be one service from Sacramento. That's my thesis.

By Mr. Farrens:

Q. And then the present service which operates between Klamath Falls and Lakeview would be deprived wholly of the traffic?

A. As far as I am concerned the Consolidated Company could go out of the picture. They are foreign to us.

Q. So you are testifying, then, purely from the standpoint of your own personal interest rather than from the standpoint of general public convenience and necessity?

A. No; I wouldn't state it that way.

Q. How would you state it?

A. I believe it would be for the interests of everybody to have one good service, a daily service in there rather than
887 what we have now.

Q. What if that put a stop to or curtailed the service between Klamath Falls and Lakeview?

Mr. Berol. That is objected to upon the ground it has already been asked and answered.

Chairman Terril. Objection sustained for the reason stated.

By Mr. Farrens:

Q. Well, you just said that you didn't care if the Consolidated went entirely out of the picture. Consolidated does serve a lot of people.

A. I mean in that particular locality, sir.

Q. The Consolidated in operating a line from Klamath Falls to Lakeview would serve a lot of people?

A. It might.

Q. And you would just as soon see that go out of the picture?

Mr. Berol. Just a moment. The question has been asked and answered in another form.

Chairman Terril. I don't think so.

A. I just said if another service went in there I would prefer that to that of Consolidated?

Board Member BROWN. The question was between Klamath Falls and Lakeview.

Mr. BEROL. I will object to that upon the ground no proper foundation has been laid. It has not been laid to indicate
888 that this witness is particularly familiar with the operation between Lakeview and Klamath Falls or that he is familiar with the operating problems or that he is familiar with the communities that are getting the service there.

Board Member BROWN. He testified to it. The objection is overruled.

Mr. BEROL. I don't want to argue after a ruling is made. I will ask that an exception be noted.

Chairman TERRIL: Can you answer the question?

The WITNESS. Will you please repeat the question?

(The question referred to was read by the reporter as above recorded).

The WITNESS. I say no doubt it would. Well, as far as the service from Sacramento is concerned it wouldn't make any difference to us at all.

By Mr. FARRENS:

Q. But you are prepared to admit, are you not, it would make a difference to other people who form a part of the public?

A. No doubt.

Q. And you don't care about that?

A. That is not any of our affairs.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. How many customers do you have at Lakeview?

A. There are about seven regular.

Q. Are there some of those customers that receive as much as a carload of your commodity?

889 A. Oh, yes. Sure.

Q. How often?

A. I think there are about three merchants so far.

Q. And do those shipments go in by rail?

A. By rail; yes.

Q. And the balance of those shipments that you have up there, what do they amount to?

A. That is a very hard question. I brought no statistics with me. They are considerable. They are good merchants.

Q. Have you any idea as to how much they run in a month?

A. Do you want a guess? That is all I can give you.

Q. The average?

A. We send them about fifteen or twenty tons a month l. c. l., I imagine.

Q. And it goes into Lakeview?
A. Yes. It is a good country.
Mr. IVERS. That is all.
Chairman TERRIL. Anything further of this witness?
Mr. BEROL. I have some redirect.

Redirect examination by Mr. BEROL:

Q. You were asked some questions about service between Lakeview and Klamath Falls, Oregon. Have you any interest in any service between Klamath Falls and Lakeview?
A. Not a mite.
Q. Do you operate an establishment at Klamath Falls?
890 A. No, sir.
Q. Or at Lakeview?
A. No, sir.
Q. Do you have occasion to transport any merchandise between Lakeview and Klamath Falls?
A. Directly; no, sir.
Q. Are you in a position to be conc rned insofar as you and your company is concerned, as to what se vice exists between Klamath Falls and Lakeview?
A. No, sir.
Q. And was that the basis of your answers to Mr. Farrens?
A. That is the idea of it.
Mr. BEROL. That is all.
Chairman TERRIL. That is all.
(Witness excused.)
Chairman TERRIL. We stand adjourned until 9:00 o'clock in the morning.
(At 5:10 o'clock p. m. an adjournment was taken to August 6, 1940, at 9:00 o'clock a. m.)

891 Before the Interstate Commerce Commission

Docket No. MC–9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience and necessity, Form B. M. C. 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California, and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA, *August 6, 1940, 9 A. M.*

Before JOINT BOARD No. 5—C. T. TERRIL, Chairman; WARREN K. BROWN, C. I. KEPHART, Examiners.

Hearing resumed.

892 Appearances: Same as heretofore noted.

PROCEEDINGS

Chairman TERRIL. You may proceed.

Mr. BEROL. Call Mr. Walton, please.

JAMES G. WALTON was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name, please?

A. James G. Walton.

Q. Where do you reside, Mr. Walton?

A. 1814 Broadway, San Francisco.

Q. What is your occupation?

A. Division of Traffic, Department of the Glidden Company.

Q. How long have you been so occupied?

A. Approximately a year.

Q. Now, Mr. Walton, what type of commodities does the Glidden Company deal in?

A. Paints.

Q. And are you familiar in a general way with the nature of the application that is pending here?

A. I am.

Q. And you understand that the Oregon-Nevada-California Fast Freight is seeking to operate a through truck service

893 between San Francisco and Portland offering next day deliveries out of San Francisco as far north as Eugene, second morning deliveries to all points north of Eugene to and including Seattle, Washington.

A. Yes.

Q. Do you have occasion in the conduct of your business to make shipments to the Coos Bay area, Coquille and Marshfield?

A. Marshfield; yes.

Q. And do you also understand or have you been advised that the applicant is offering next day delivery from the San Francisco area to Marshfield?

A. Yes.

Q. And do you have occasion to make shipments to the Lakeview area?

A. Yes.

Q. And you understand that the applicant is likewise offering a next day service out of the San Francisco area to Lakeview?

A. Yes.

Q. Are your shipments only out of San Francisco or do you also make shipments out of Sacramento?

A. No; only San Francisco.

Q. Only San Francisco?

A. Yes.

Q. Can you give me some idea as to how frequent your shipments have been in the past to Lakeview?

894 A. Approximately once every two weeks.

Q. Approximately once every two weeks?

A. Yes.

Q. And what would be the normal size of a shipment to Lakeview?

A. About 300 pounds.

Q. How frequently have you been making shipments to Marshfield?

A. Approximately once a week.

Q. And about how large are those shipments?

A. Averaging around 1,500 pounds.

Q. Are you able at the present time through any transportation facilities to obtain next day deliveries to either Marshfield or Lakeview?

A. Not as far as I know.

Q. And is that a matter of any importance to you?

A. It certainly is.

Q. Will you state why, please?

A. Orders coming in from contractors specify immediate delivery. By the time the orders are made up and the time they are received there is usually a delay, which is very important to us. We want to get our materials on the job as quickly as possible.

Q. Do you have occasion to make shipments to points between Medford, Oregon, and Seattle, Washington, on Highway 99?

A. Yes.

895 Q. And to which points?
A. Eugene, Corvallis, Albany.
Q. Roseburg?
A. Roseburg.
Q. Portland?
A. What?
Q. Portland?
A. Portland; yes.
Q. Seattle and Tacoma?
A. Seattle and Tacoma and Bellingham.
Q. How frequently do you have occasion to make shipments into that territory?
A. Every day.
Q. Would there be one or more shipments per day?
A. Oh, there would be more than one shipment per day.
Q. Can you give me an idea as to the approximate average of the tonnage per day or per week into that area that you ship from San Francisco?
A. I would say in the neighborhood of 30,000 pounds a week.
Q. 30,000 pounds a week?
A. Yes.
Q. What mode of transportation are you using for those shipments at the present time?
A. Using water, rail, and truck.
Q. And those 30,000 pounds a week that you mentioned
896 are all by these three forms of transportation?
A. Right
Q. And what portion of that is normally moved by truck?
A. On an average, I would say about 10,000 pounds a week.
Q. 10,000 pounds a week?
A. Yes.
Chairman TERRIL. Excuse me, Mr. Berol. Would that be 10,000 pounds a week of all of the traffic moving into this north territory or just to Portland, Seattle, and intermediate points?
The WITNESS. Into the entire northern territory.
Chairman TERRIL. About 10,000 a week by motor truck?
The WITNESS. Right.

By Mr. BEROL:

Q. Are all your shipments north-bound or do you have any south-bound shipments?
A. Very few. We have a warehouse at Portland that does make a few intermediate shipments, occasionally returned goods. The majority of it is all north-bound.
Q. What transportation agency are you using at the present time for your shipments by truck?

A. Oregon-California Fast Freight.

Q. In conjunction with the Consolidated Freightways?

A. Right.

Q. Have you had any difficulties with that service as it exists at the present time?

897 A. The only difficulty has been in the event of a claim or tracing a shipment. A slight delay has come up on those occasions.

Q. And was that delay occasioned by reason of the two carriers being involved?

A. Quite apparently.

Q. And is it your view that if you were dealing with one carrier under those circumstances those delays would not occur?

A. Right.

Q. How about the time in transit? Is that a matter of any importance to you?

A. It is on occasion. When we do use a truck service it is usually necessary that we get it in there in a hurry. As a matter of fact, we have even expressed up to a thousand pounds to Portland and beyond in order to get it there, because we know it will reach there in a certain time.

Q. In expressing shipments weighing up to a thousand pounds you pay quite a penalty by way of charges?

A. We certainly do.

Q. Recognizing that the proposed service will give you next day delivery as far north as Eugene and second morning delivery to points north thereof, to and including Seattle, Washington, is that an improvement over your present facilities?

A. It certainly is.

898 Q. Would that type of service be an advantage to you in the conduct of your business?

A. It would.

Q. And if it is instituted would you use it?

A. Yes.

Q. And is it your desire that it be made available to you?

A. Yes.

Q. You have had experience with the Oregon-Nevada-California Fast Freight in making shipments, have you not?

A. Yes.

Q. And over how long a period of time?

A. With the present company for approximately a year, and with other companies for about five years.

Q. In other words, you have had approximately five years experience with the company?

A. Yes.

Q. Based upon your experience over a period of five years, would you say that the Oregon-Nevada-California Fast Freight is a reliable transportation agency?

A. Yes.

Q. In other words, your experience generally with them as far as reliability has been entirely satisfactory?

A. It has been excellent.

Mr. BEROL. I think that is all. You may take the witness.

899 Chairman TERRIL. Mr. Walton, are there any truck load lots in any of these shipments?

The WITNESS. Occasionally; yes.

Chairman TERRIL. Are you using any other motor carrier to this northern territory other than Oregon-Nevada and the combination of Consolidated Freightways?

The WITNESS. No.

Chairman TERRIL. Cross-examine.

Cross-examination by Mr. ROBERTS:

Q. You knew there were other carriers which would be available for your purposes into the northwest territory?

A. Yes.

Q. Had you made any investigation as to the facilities which they could afford you or accord you?

A. Yes; a small investigation. What little I did amounted to the fact that they didn't have the service and the equipment to suit our needs.

Q. And what type of equipment do you have to have in order to suit your needs?

A. Well, we need a service that gives us immediate pick-up, a service that we know is going to get out of San Francisco at a certain time. In the event that we have to have a truck we want to know that it is not going to be delayed and not going to be held over.

900 Q. Did you ever hear of the facilities accorded by Pierce Auto Freight Lines?

A. Yes.

Q. Have you ever used that facility?

A. No.

Q. You knew that that had a daily through service, did you not, into Medford and intermediate points to Portland?

A. I wasn't aware that they had a daily service until quite recently.

Q. You have never used that facility, have you?

A. No.

Q. Have you ever used Pacific Truck Express?

A. No. I understand that that is P. F. V. or, rather, P. M. T.

Q. What do you mean by that? That it is controlled——

A. (Interrupting.) I understand that that service is no longer available, that P. M. T. is the service.

Q. If the service were available would you utilize it or use it?

A. I might possibly.

Q. You might "possibly." Do you mean, then, that you probably wouldn't use it because the facilities which are now afforded are satisfactory?

A. Right.

Q. And this service which you are now receiving from Oregon-Cal. and Consolidated does meet your needs and requirements, does it?

A. Right.

901 Q. In all particulars?

A. Right.

Q. And you have no occasion to be dissatisfied with the type of service which you are now accorded and afforded?

A. No.

Mr. ROBERTS. I think that is all.

Mr. FARRENS. No cross.

Mr. IVERS. No cross.

By Mr. JENNINGS:

Q. Mr. Walton, as I understand it, what you are asking the Commission for now is a service on the schedules which counsel outlined to you? Is that correct?

A. Right.

Mr. JENNINGS. That is all.

Redirect examination by Mr. BEROL:

Q. Mr. Walton, in response to a question you stated that the present service you are using is satisfactory to you and meets your needs. By that do you mean that it is satisfactory insofar as existing facilities are concerned?

A. No. As I understand, the service will be improved with a through service which will certainly help us over the present set-up as far as being—as trucks leaving San Francisco it is satisfactory.

Q. But insofar as the entire service is concerned, the service such as is proposed here is more suitable for your needs than what is available to you at the present time?

A. Yes.

902 *A. Yes.*

Mr. BEROL. That is all.

Re-cross-examination by Mr. IVERS:

Q. If there are other truck services at the present time that are already affording that same type of service that is proposed by the applicant, you don't know it? It that the fact?

A. I know that a service similar to that was being operated, but as far as we were concerned it wasn't entirely satisfactory.

Q. Well, whose service was it that you knew about that wasn't entirely satisfactory?

A. Pierce.

Q. Who else?

A. I don't recall the other ones.

Q. Well, did you ever make a check on any other one?

A. No.

Q. So that if there is any other that is offering the same service proposed by the applicant you don't know anything about it?

A. No.

Q. And your needs so far have not been sufficiently great for such a service that you have gone looking for it?

A. I have been satisfied with the service that is available to us.

903 Q. And in spite of the fact that there might be a better service available on through schedule, your needs have not been great enough to require you to go out looking for such a service?

A. No.

Mr. IVERS. That is all.

Mr. BEROL. I think that is all, Mr. Walton. Thank you very much.

The WITNESS. You are welcome.

(Witness excused.)

Mr. BEROL. May I have a few minutes recess to ascertain what happened to my cohorts?

Chairman TERRIL. We will take a brief recess.

(Whereupon a short recess was taken after which the proceedings were resumed as follows:)

Chairman TERRIL. All right, gentlemen.

Mr. BEROL. Mr. Klinkner, will you take the stand?

Charles A. KLINKNER was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name for the record, please?

A. Charles A. Klinkner.

Q. And where do you reside, Mr. Klinkner?

A. 735 Cornell, Albany, California.

904 Q. What is your occupation?

A. I am assistant to the traffic manager, National Cash Register Company.

Q. And how long have you been so occupied?

A. Nine years.

Q. And, as such, are you familiar with the shipping problems of the National Cash Register Company?

A. I think so.

Q. Are you generally familiar with the nature of the application that is pending here?

A. Yes; I am.

Q. And you have been informed that the applicant, the Oregon-Nevada-California Fast Freight, proposes a through truck service between San Francisco area and Portland?

A. That's right.

Q. Offering following day service to all points as far north as Eugene, second morning service as far north as Seattle, Washington?

A. Yes.

Q. Also Spokane, Washington?

A. Yes.

Q. Do you have occasion to make any shipments to Lakeview?

A. Yes; we do.

Q. And offering a following day delivery to Lakeview and also a following day delivery to the Coos Bay area, such as
905 Marshfield and Coquille?

A. Yes; we have shipments up there.

Q. Approximately how frequently do you have occasion to make shipments to Marshfield and Coquille area?

A. Well, I would say they are; oh, once or twice a week.

Q. What do the shipments consist of?

A. Cash registers and cash register paper.

Q. Taking into consideration that the service into that area proposed is a following day delivery from San Francisco, is that kind of a service available to you at the present time?

A. No.

Q. And do you in the conduct of your business need that kind of a service?

A. Well, yes; we do.

Q. Will you explain briefly why?

A. Well, for the simple reason that up in that terirtory, when an agent or a customer orders a cash register, it takes him about six months to make up his mind that he wants a cash register, and when he buys it he wants it right now. So we have to give him fast service.

Q. What would be the average weight of your shipments?

A. Well, I would say about anywhere from 100 to 150 pounds.

Q. With respect to the territory north of Medford to and including Seattle, for example, do you ship to such points as Grant's Pass, Eugene, Salem?

906 A. Yes; we do.

Q. Do you ship to Portland?

A. Yes; we do.

Q. Tacoma?

A. Yes.

Q. Seattle?

A. Yes.

Q. Taking into consideration that entire northern territory north of Medford, how frequently would you say that you ship into that area?

A. Well, we ship into that area about three or four times a week.

Q. And would the weight per shipment be about the same as the weight into the Coquille area?

A. The weight would be more.

Q. And what would be the average weight per shipment into that area?

A. Well, I would say about—it varies. Sometimes it is only a hundred, two hundred pounds, then it might run up to a thousand or fifteen hundred pounds.

Q. In other words, it would vary anywhere between a hundred and fifteen hundred pounds?

A. That's right.

Q. And those shipments would move on an average of three or four times a week?

907 A. Yes.

Q. And that is throughout the year?

A. Yes.

Q. What means of transportation are you using at the present time?

A. Oregon-California Fast Freight.

Q. Do practically all of your shipments move by truck?

A. Well, 50 percent of them, anyway.

Q. Now, you are using the Oregon-Nevada-California Fast Freight in conjunction with the Consolidated Freightways, I presume?

A. Yes; we are.

Q. And what experience have you had generally with the use of that service?

A. Very good.

Q. Insofar as the time in transit is concerned, is that into the area north of Medford of equal importance to you with the problem into the Coos Bay area?

A. Well, yes; it is.

Q. Recognizing that under the proposed service you will get a next day delivery as far as Eugene and a second morning delivery into the points north of Eugene, is that an improvement over the service that you are receiving at the present time?

A. Yes; it would be.

Q. And is it an improvement that is of any importance
908 or consequence to your company?

A. It is very much.

Q. Do you have any competition up in the northwest area?

A. What do you mean by "competition"?

Q. From other——

A. (Interrupting.) Firms?

Q. Yes.

A. No; we haven't.

Q. Is it your view that if the service as proposed is authorized and instituted that it will help you in making your shipments to those points?

A. Yes; it will.

Q. Will it help you with your customers?

A. Yes.

Q. How long a period of time have you had any experience with the Oregon-Nevada-California Fast Freight?

A. Oh, I would say about four or five years anyway, I know.

Q. And based upon that experience generally, would you say they are a reliable transportation agency?

A. I would say they were.

Mr. Berol. I think that is all. You may take the witness.

Chairman Terril. Mr. Klinkner, does your company maintain facilities for distribution in either Portland or Seattle?

The Witness. No; they don't. We do all the distributing
909 on the Pacific Coast here.

Chairman Terril. And no stock is carried in either of those points?

The Witness. Well, there is a small stock. You see, we supply them up there.

Chairman Terril. It all moves, then——

The Witness (interrupting). From San Francisco.

Chairman Terril (continuing). From San Francisco?

The Witness. We are the distributing point on the Pacific Coast.

Chairman Terril. Cross-examine.

Cross-examination by Mr. ELLIS:

Q. Do you ship any of your products to points like Tillamook?

A. Well, there are very few shipments go up there. Once in a while we have a shipment, but very seldom.

Q. Do you have competitors who serve the merchants of Tillamook?

A. What do you mean by "competitors"? With the National Cash Register Company?

Q. Some of the cash register companies that supply the Tillamook area with its cash registers?

A. No; we have no competition at all.

Q. Do you know if any of the business people in the Tillamook area use cash registers?

910 A. I imagine they do.

Q. Do you know what your truck service to Tillamook is at the present time?

A. No; I don't know.

Q. Have you had occasion to complain about it?

A. No; we haven't.

Mr. BEROL. He stated he hadn't shipped there.

By Mr. ELLIS:

Q. Do you ever ship to Burns, Oregon?

A. I don't recall lately that we have had a shipment up there.

Q. Would first afternoon service in Burns be of advantage to you?

A. Well, I couldn't say to that bacause, as I said before, that we haven't made many shipments up in there. In fact, since I have been there, why, I don't recall of having any.

Mr. BEROL. Maybe counsel ought to ask about places that have heard about cash registers.

The WITNESS. It would be a better idea.

By Mr. ELLIS:

Q. Do you make any shipments of cash registers to Astoria?

A. We have very few shipments that go to Astoria.

Q. Compared to Marshfield, would you say you ship more to Marshfield than you do to Astoria?

A. Yes; I do.

Q. And do you ship out of your San Francisco Bay

911 plant to points like San Luis Obispo?

A. Yes; we do.

Q. What service do you use to that point?

A. We use the P. M. T., rail.

Mr. BEROL. Is that an overnight service?

The WITNESS. Yes.

By Mr. ELLIS:

Q. Do you have any transportation needs into the Coos Bay area that are particularly different than you have into any other points to which you ship?

A. Well, I would say the only difference is that we have more shipments and more frequent movements of registers between Medford, Oregon, and Portland. They are the points that we are interested in. That is, our largest amount of shipments go into those points.

Q. Do you ship more into those points than you do to northern California or points in southern California?

A. We ship more to the southern points in California because they are larger agencies and there is more field for the machines.

Q. Do you uniformly use truck transportation service for your shipments to southern California?

A. Well, we use—it's about—we try to break it up as evenly as possible.

Q. Well, do you use the same plan on your shipments of cash registers to Marshfield? Do you divide your business be-

912 tween rail and truck?

A. No. We have been giving it to the Oregon-California Fast Freight because they have been giving us good service, and so long as they do that they can have the shipments.

Q. And you haven't been using the rail service at all, then, to Marshfield?

A. No; we haven't.

Q. And you are reasonably well satisfied with the service that Oregon-Navada-California Fast Freight has been giving you in the past?

A. Very satisfied.

Q. And as far as you are concerned, they are reasonably meeting your present transportation needs?

A. Yes; they are.

Q. Have you had occasion to use the service of Pierce Auto Freight Lines to points north of Medford?

A. We haven't had an occasion lately.

Q. Would a daily service by that company as given at the present time be of any service to you?

A. What was that again?

Q. Would a daily service as given by Pierce Auto Freight Lines at the present time be of any advantage or service to you?

A. Well, no. I don't think we would change. We would stick to the Oregon-Cal.

913 Q. Do you say that regardless of the type of service that the Pierce Line gave you?

A. Well, to be very frank, I haven't heard so very much about the Pierce Auto Freight lately. They never come into the office and we never contact them and, as I said before, we have contacted Oregon-Cal. Fast Freight and they have done the work properly and satisfactorily, and so they receive the shipments.

Q. And by reason of personal preference you would give them the advantage regardless of any slight advantage in service on another line that you haven't had contacts with?

A. That's right.

Mr. ELLIS. That is all.

By Mr. FARRNES:

Q. Mr. Klinkner, I am a little puzzled by the testimony which you have given about lack of competition. Is there no other company in the United States engaged in producing and marketing a machine which performs a similar function to the cash register machine that you produce?

A. Well, that may have been a pretty broad statement to say that we have no "competition." What I meant to say was that we have very little competition. The Burroughs Cash Register Company put out a Burroughs machine, but they don't seem to be hurting us at all. That is the only way I can clarify it.

Q. Then on the Coast here you feel that what percentage—I will call them "cash registers", with your permission—
914 what percentage of cash registers would you think that you supply?

A. Oh, about 95 percent.

Q. Another thing I did not quite understand about your testimony was the question of distribution. I live in Portland. If I wanted to buy a cash register would I have to get one from San Francisco or would there be a supply in Portland where I could go right down and buy one?

A. Well, there may be a few cash registers up there, but they draw all their cash registers from the warehouse down here. They might not be just the same type that you wanted, the exact type that you wanted, and they would have to get it from us.

Q. What distance would the average purchaser go to purchase one of your cash registers? Does the agent have a store?

A. Yes; he has a store.

Q. And there is a certain amount of inventory?

A. That's right.

Q. And if I go to that store and ask for something that he did not have in his inventory, you would ship that direct to him to supply me?

A. Yes. Well, that is very possible, too, because he is likely to run out of those machines and he would have to be supplied with more machines and he would have to get them from us.

915 Q. Mr. Klinkner, when you are distributing in this Coast territory do you find that your distribution bears a pretty steady ratio to the population of each town? I mean, one town is ten thousand, the other town is twenty thousand. Is it likely that you would sell twice as much as the town of ten thousand?

A. Yes.

Q. You were asked about your shipments, for example, to Astoria. Astoria is approximately twice as large as Marshfield.

A. I see.

Q. I would like to know the reason why you have very frequent shipments to Marshfield and to Astoria, which is a town twice as large, that you don't very often ship.

A. Well, the only way that I can explain that is in Marshfield the agency is governed by Eugene, Oregon, and Eugene, Oregon—they haven't got a large enough amount of merchandise on their floor. Therefore, they have to order direct from us, whereas in the other territories they are a larger agency and they can supply them right from Seattle or Tacoma or wherever they may be.

Q. Or Portland?

A. Portland, I mean.

Q. Then you know where Bend is in Oregon?

A. Bend?

916 Q. It is in central Oregon.

A. Let me refresh myself on that [examining map]. Yes.

Q. Bend is a town which is approximately 60 percent larger than Marshfield?

A. I see.

Q. Do you ship over there much?

A. Well, for some reason or other we have very few shipments to Bend, Oregon.

Q. Do you ship much to the Washington coast over around Gray's Harbor?

A. Well, we make occasional shipments there, but not very many.

Q. Would second morning delivery be a benefit to you there?

A. Well, any time that we can save any time is all in our favor because, as I stated before, these people in these towns out here, they buy a cash register. It takes them a long time to make up their mind, and when they want a machine they want it right now and wonder why they can't get them. If you tell them it will take two or three days, well, then, two or three days they can change their mind.

Q. What one of your competitors has his distribution place at what place?

A. I don't know. I couldn't tell you.

Q. Competition isn't keen enough, so you don't know where he distributes from?

917 A. That is right.

Q. That is a very fortunate position.

A. Rather a monopoly.

Q. During the period while you have been in charge down here or during your present position, have you used the services of the Pacific Truck Express?

A. No; I haven't.

Q. Are you aware of the fact that when you patronize the applicant in this case for shipments north of San Francisco that to points beyond Medford there is an interchange to the line of the Consolidated Freightways?

A. Yes; I am aware of that.

Q. Is that interchange a matter of any inconvenience to you?

A. Yes. It is an inconvenience because it takes longer for them to make a change for the merchandise to get to the point of destination, and then excess handling has quite a little to do with it.

Q. Were you aware of the fact that there was a delay of eight or nine hours at the point of interchange?

A. I didn't know whether it was eight or nine hours, but there naturally would be some delay.

Q. Did you know that for years Pacific Truck Express has been operating a through service between Portland and San Francisco which involved no interchange?

A. Well, I hadn't investigated it.

918 Q. And you had never used that service?

A. No; we haven't.

Q. Is it a matter of advantage to you to have, in your opinion, deliveries effected by the same carrier who picks up the shipment at the shipping point of origin?

A. Yes; it is.

Q. Did you know that Pacific Truck Express for a long time has been furnishing a service to the Coos Bay area, including Marshfield, from San Francisco?

A. No.

Q. Well, am I justified in saying, Mr. Klinkner, assuming from what you have said, that the service of this applicant in connection with its connecting carrier at Medford, the Consolidated Freightways, has been so satisfactory to you and to your company that you have made no investigation to find out what carriers, if any, were serving with a through service to Portland and to the Coos Bay territory without the interchange in the case of shipments over Highway 99 to points north of Medford?

A. Well, we have been satisfied, certainly. But, as far as I see it, if we can have one firm, one trucking line pick up our mer-

chandise and deliver it at a point of destination from the time it leaves, just one handling, we would prefer that.

Q. Well, what I am getting at, Mr. Klinkner, is that service has been available to you by Pacific Truck Express, for example.

919 A. Yes.

Q. Now, you have not seen fit to partonize that service?

A. That's right.

Q. Is it a true explanation that the combined service offered by this applicant and its connecting carrier has been sufficiently satisfactory to you so that you didn't see fit to make a change and patronize the through carrier?

A. Oh, it has been satisfactory.

Q. It hasn't been a matter of sufficient importance, then, to your company to cause you to abandon this service of the applicant and its connection involving an interchange at Medford in favor of a company operating through to Portland?

A. That's right.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. Do you have more shipments to Seattle and the territory north of Portland than you do in the territory between Medford and Portland?

A. Yes; we have more shipments.

Q. Well, you understand that the proposal of this applicant is to make an interchange at Portland for points beyond Portland?

A. Yes.

Q. Would it be just as unsatisfactory to you as far as the interchange is concerned to have that interchange made at Portland that is now made at Medford?

920 The WITNESS. What was that again?

Chairman TERRILL. Read the question.

(The pending question was read by the reporter as above recorded.)

A. No; I wouldn't say that it was unsatisfactory.

By Mr. IVERS:

Q. The interchange is not unsatisfactory?

A. Not out of Portland.

Q. What difference would there between an interchange at Portland and one at Medford?

A. Well, just that handling these shipments from—we would like to have a through service and a fast service going up into these points between Medford and Portland.

Q. Well, what about the points beyond Portland?

A. Well, the points beyond Portland, we figured on using the rail lines above Portland.

Q. Are you using them now?

A. Yes; we are.

Q. And you intend to continue to use them in the future?

A. Yes.

Q. What delivery do you get by rail lines?

A. Oh, I would say about third morning.

Q. And that is satisfactory to you?

A. Yes; it is.

Mr. IVERS. That is all.

By Mr. Jennings:

921 Q. Mr. Klinkner, is it your understanding that all of the shipments that you make via the Oregon-Nevada-California Fast Freight move by Consolidated Freightways beyond Medford?

A. Yes.

Q. Do you route them via Consolidated Freightways?

A. No; we route them Oregon-Nevada-California Fast Freight, and let Oregon-Cal. take care of them.

Q. Do you know whether the Oregon-Nevada-California Fast Freight has any other connecting carrier at Medford?

A. No; I don't.

Q. You don't know that they have joint rates with the Pierce Auto Freight?

A. No.

Q. You don't know whether it would be possible for them to expedite those services on your shipments by giving them to Pierce rather than to Consolidated?

A. I don't know anything about that.

Q. You are not enough interested in the speed to find out whether that was available?

A. Well, I just take into consideration that we have gotten good service and fast service from Oregon-Cal. before, and I figured that they would look out for us.

Q. With respect to the points beyond Portland, is it your understanding that the applicant here is guaranteeing service beyond Portland?

922 A. I understand that he is guaranteeing service beyond Portland. As I said before, we feel that we want to use rail from Portland north.

Q. To all points north?

A. Yes.

Q. How about Spokane?

A. Well, we have used truck lines into Spokane.

Q. Do you specify the routing between Portland and Spokane?

A. Do I specify the routing?

Q. Yes.

A. Yes.

Q. And in the case of Portland and Spokane, why do you specify the routing there when you don't specify it beyond Medford?

A. As I said before, I just take into consideration Oregon-Cal. is going to look out for our service.

Q. Couldn't they look out for you in Portland just as well?

Mr. BEROL. I am wondering if counsel and the witness are talking about the same thing. Do you mind if I ask him a question, Mr. Jennings?

Mr. JENNINGS. No.

Mr. BEROL. By specifying the routing, you meant that you specify the Oregon-Nevada-California Fast Freight in San Francisco.

The WITNESS. That's right.

Mr. BEROL. Do you instruct them as to what carrier they
923 are going to use beyond Medford or Portland?

The WITNESS. No.

Mr. BEROL. You leave it up to their responsibility?

The WITNESS. That is right.

Mr. BEROL. I didn't think the witness understood.

Mr. JENNINGS. I thought he did testify from Medford.

By Mr. FARRENS:

Q. Don't you normally turn it over to the railroad when you make a shipment to Portland or Spokane?

A. Not always. If I feel that I want to send it up by rail I give it to the G. N. or S. P. to take it to Spokane. Other times I give it to Oregon-Cal., as I see fit.

Q. What proportion of your shipments from Portland, Oregon, to Spokane, including Spokane, move by rail?

A. Well, what I try to do: We get a faster service to Spokane by truck, and what I try to do is to give as much as I can to the truck lines. But we have the situation down there, if we get a certain minimum charge in a trap car, we can have it taken over to the depot for nothing, a $15 minimum charge. If I see that I need some weight I put it in the trap car. That's the way I work it.

By Mr. JENNINGS:

Q. Do I understand that you are not asking the Commission necessarily for any more service? What you are asking for is the particular schedule that counsel outlined at the beginning of your direct testimony?

A. I am asking for a better service.

924 Q. The particular service that he told you about?

A. Yes.
Q. That you have been promised?
A. What is that?
Q. The particular service that you have been promised?
A. Yes.
Mr. JENNINGS. That is all.

Redirect examination by Mr. BEROL:

Q. Now, Mr. Klinkner, in response to a question by one of those gentlemen you indicated that you would give the Oregon-Nevada-California Fast Freight the preference over some other carrier. Is that by reason of your experience with them?

A. Yes; it is.

Q. Let me ask you. Suppose on the other hand there were a carrier that could give you next day service to Eugene, for example, and the Oregon-Nevada-California Fast Freight could not get it there under their service until the second day; all other factors being equal, would you still use the Oregon-Nevada-California Fast Freight or would you give it to the carrier that gave you the faster service?

A. I would give it to the carrier that gave me the faster service.

Mr. BEROL. That is all.

925 Recross-examination by Mr. IVERS:

Q. What other carriers have you had experience with that caused you to say that you would use Oregon Nevada-California Fast Freight rather than the other services that are now available?

A. Well, the only thing that I can say is that we have been using them for a long time and we are satisfied and the customer is satisfied at the other end. So that's all that we can do. That's our job to see that these——

Q. (Interrupting.) The question I asked is, Counsel asked you if you would prefer the Oregon-Nevada-California Fast Freight because of your experience with other carriers.

Mr. BEROL. No. I asked him because of his experience with this carrier, with the Oregon-Nevada-California Fast Freight.

Mr. IVERS. If that is true, then I will withdraw the question.

By Mr. FARRENS:

Q. Did you so understand the question?

A. Yes; I understood the question.

Q. And your answer was not intended to indicate that it was because of satisfaction with the Oregon-Nevada-California service and dissatisfaction with the service of any other truck line?

A. No.

Chairman TERRILL. Anything further of this witness?

Mr. Berol. That is all I have. Thank you very much, Mr. Klinkner.

(Witness excused.)

926 Mr. Berol. Call Mr. Bishop, please.

Harry W. Bishop was sworn and testified as follows:

Direct examination by Mr. Berol:

Q. Have you been sworn, Mr. Bishop?

A. Yes.

Q. Will you state your full name for the record?

A. Harry W. Bishop.

Q. Where do you reside?

A. 2573 Twenty-third Avenue; the home address.

Q. San Francisco?

A. San Francisco. That's right.

Q. And what is your occupation?

A. My occupation is shipping clerk, I guess is the title, with the company.

Q. What company?

A. The Eloesser-Heynemann Company.

Q. And, as such, are you familiar with the shipping problems of the Eloesser-Heynemann Company?

A. Yes.

Q. And you are authorized to appear here by your company and testify?

A. I am.

Q. What business is your company engaged in?

A. We are engaged in the manufacture of cotton denim
927 work clothing and corduroy clothing.

Q. You have been established for some considerable time?

A. Since 1850.

Q. In San Francisco?

A. In San Francisco; yes, sir.

Q. Are you familiar in a general way with the nature of the application that is pending here?

A. I am.

Q. And in the conduct of your business do you have occasion to ship to the Coos Bay area, Coquille, Marshfield and that territory?

A. Yes; we do.

Q. Approximately how frequently do you ship into that territory?

A. Into that particular area, I would say that we ship on an average of about once every ten days at the present time.

Q. And what would be the average weight per shipment into that area?

A. Around 450 pounds.

Q. Do you have occasion to ship to Lakeview?

A. We do; yes, sir.

Q. And how frequently do you ship to Lakeview on the average?

A. We have one customer in Lakeview. I would say, on an average of about once—a freight shipment about once every twenty days, approximately.

Q. And what would be the average weight of that shipment?

928 A. About 150 pounds.

Q. Into Lakeview what type of transportation facilities are available to you at the present time? Are you familiar with that?

A. Yes. Of course, we have the railroad, the Southern Pacific and, of course, the Oregon-Nevada motor.

Q. As far as the Southern Pacific is concerned, what is the time in transit?

A. I understand it's about, into Lakeview——

Mr. FARRENS. (interrupting). Just a moment. If the Board please, I have no objection to this witness testifying what the time is if he knows, but if he is going on some hearsay basis I think there is better evidence than that.

By Mr. BEROL:

Q. Do you know what the time in transit by rail between San Francisco and Lakeview is?

A. Offhand I wouldn't say positively. I would have to give an estimate into that particular point.

Mr. FARRENS. I object to it because we can have precise testimony and will have precise testimony on that in the record.

Mr. BEROL. Well, if counsel states that he will have "precise" testimony, then I won't pursue the question with this witness. That is all I am interested in, having the record show what the precise facts are.

Chairman TERRIL. Very well. Go ahead.

929 By Mr. BEROL:

Q. Are you able at the present time to get a service into Lakeview that will give you delivery there the day following departure from San Francisco?

A. I don't believe so; no.

Q. Is that kind of a service one that is of any interest to you?

A. It is highly of interest to us.

Q. Will you state why, please?

A. I state this fact: That all our shipments are highly rush shipments, and it is our purpose to obtain the fastest time into Lakeview or any other points, as a matter of fact, on account of our competition from Portland. If it is possible for us to get our shipments there quicker than competitors in Portland, then, of course, naturally we are interested in the fastest service.

Q. With respect to the Marshfield-Coquilla area, have you been informed that the applicant here proposes to make deliveries there the day following departure from San Francisco?

A. I understand that; yes.

Q. And is that kind of a service one that is available to you at the present time?

A. Absolutely it is.

Q. Did you understand my question?

Will you read it, Mr. Reporter?

Chairman TERRIL. Read it.

930 (The question referred to was read by the reporter as above recorded.)

The WITNESS. Oh, available? No; it is not.

By Mr. BEROL:

Q. And, likewise, is that the kind of a service that you desire?

A. That is a service that we desire; yes, sir.

Q. For the same reason that you expressed with respect to the Lakeview shipments.

A. That is true.

Q. Do you have occasion to ship to points north of Medford, to and including points north of Medford?

A. We do.

Q. To what points?

A. We ship to Hillsboro, Salem—north of what points did you say?

Q. Medford.

A. North of Medford?

Q. Grant's Pass?

A. Grant's Pass.

Q. Roseburg?

A. Roseburg, Salem, Hillsboro, and Portland south.

Q. Eugene?

A. Eugene. As a matter of fact, we ship to all those points.

Q. Would you say that you ship to all points intermediate between Medford and Portland?

A. That's true; yes.

931 Q. And in what territory between Medford and Portland, including Portland, how frequently would you say that you ship into that area?

A. At the present time I am shipping not less than every other day.

Q. And what would you say would be the average weight of the shipments into that area?

A. Our shipments in those points there average around about 125 to 175 pounds a shipment.

Q. Do you ship on the average of about three times a week into that area?

A. Yes.

Q. Do you understand or have you been informed that with respect to that territory the applicant proposes a through service without interchange to all points as far north as Portland?

A. Yes: I do.

Q. Do you have occasion to ship to Vancouver, Washington?

A. Yes; we do ship to Vancouver, Washington.

A. Camas?

A. Camas?

Q. Washougal?

A. Walla Walla; yes, sir.

Q. What means of transportation are you using at the present time into the territory between Medford and Portland?

932 A. I am using the Oregon-California-Nevada motors.

Q. And you understand they interchange with Consolidated Freightways at Medford?

A. I do; yes.

Q. Do you know what the time in transit by the combination of Oregon-Nevada-California Fast Freight and Consolidated Freightways is at the present time to points north of Medford?

A. The time?

Q. Yes.

A. Some of the points I do; yes; others I don't.

Q. Would you specify as to the points that you are familiar with?

A. Well, for instance, points like Salem and Hillsboro, Pendleton—that's about all I know offhand.

Q. And, generally, is it your understanding that the service to the points north of Medford is second morning at the present time?

A. At the present time north of——

Q. (Interrupting.) Medford.

A. Medford? Yes, second morning.

Q. And is it your understanding that under the proposal here the applicant will give next day service to all points as far north as Eugene?

A. Yes.

Q. And is that service of any advantage to you in the
933 conduct of your business?

A. It is, very much.

Q. And if it is established will you use it?

A. I will; yes, sir.

Q. How long have you had experience with the Oregon-Nevada-California Fast Freight?

A. I have been doing business with them going on four years now.

Q. Subject to the question of infirmities, such as delays that you have mentioned, but with respect to conditions other than those, would you say that they are a reliable transportation agency?

A. I would; yes. Absolutely.

Q. Have you had any experience with any other carriers in this area?

A. At the present time?

Q. No; or at any time in the past.

A. Well, previous to the time that I have been using Oregon-Nevada motors I have used a couple of other carriers that I have had experience with.

Q. Which ones were they?

A. I used the Pierce Auto Freight at one time and the Pacific Truck, I believe it was.

Q. Pacific Truck Express?

A. That's right.

Q. What would you say as to the type of service that you
934 have received from the Oregon-Nevada-California Fast Freight compared with the service that the other two gave you?

A. I would say that it is more efficient service.

Q. Then you were able to get from either of the other two carriers?

A. That's right.

Q. Is it your view that if the Oregon-Nevada-California Fast Freight seeks to improve and give you a better service that you are anxious to get the better service that they offer?

A. I am; yes.

Q. And that is the reason you are here testifying?

A. That is the reason; yes, sir.

Mr. BEROL. I think that is all. You may take the witness.

Cross-examination by Mr. ROBERTS:

Q. Do you use rail at all for any of your shipments, Mr. Bishop, into the northwest territory?

A. Yes; I do.

Q. You have spoken of shipments into Marshfield of 450 pounds once every ten days and Lakeview 150 pounds and other matters. Does that institute the amount of tonnage that you use through the medium of truck or rail and truck?

A. No; that's just by truck.

Q. That is just by truck?

A. That's right.

935 Q. But you do use rail quite considerably, do you?

A. I do rail up there; yes, sir.

Q. And what proportion of your shipments go by rail and what proportion by truck, approximately?

A. Through the entire territory?

Q. I am talking about the northwest territory, from Oregon on north.

A. I would say at the present time about 60 per cent. of our shipments moving that way are truck and 40 per cent rail.

Q. 40 per cent. by rail?

A. That's right.

Q. Why do you use truck facilities to the extent of 60 per cent.?

A. I use the truck for this reason: I use the Gregon-Nevada motors. As far as I know and as far as I can check, their service is very good. We haven't had any complaints up there and our customers seems to be very well satisfied with the service also. Therefore, it is to our advantage to use that service which is beneficial to both of us.

Q. What I am getting at, Mr. Bishop, is why wouldn't you use rail for all of your shipments?

A. There are some cases where the shipper pays the freight and he specifies "Ship by rail" and, therefore, I have to ship rail.

Q. Then the matter of time is not so essential to the ship-

936 ments which you make? Isn't that true?

A. The matter of time? Yes; it is essential.

Q. It is essential?

A. That's right.

Q. Well, if on occasions the purchaser or the shipper, your customer, desires the use of rail, that isn't a matter of particular expedition, is it?

A. It is on his part. Naturally, if a customers pays the freight he is taking all those things into consideration.

Mr. BEROL. It would be O. K. with you if he wanted to ship them by camel or horse?

The WITNESS. What is that?

Mr. BEROL. It would be O. K. with you if he wanted to ship them by camel or horse?

The WITNESS. I abide by his routing, that is right.

By Mr. ROBERTS:

Q. By his routing?

A. That's right.

Q. And you ship in any manner he desires?

A. That's right.

Q. Do you have any particular emergency shipments? Is there any desire on the part of the customer that it be gotten there so quickly as to desire fast and expeditious service?

A. I will tell you. The situation in our company in this: We do business—we manufacture for Montgomery-Ward and Sears, Roebuck Company, and then we have our own regular customers,

937 and our own regular customer is where we handle the freight and the routings are open to our—on this end. We consider all those shipments, particularly our straight shipments of highly fast nature. And, therefore, that is the reason that I use the trucks.

Q. You have used O. N. C. for approximately four years, you say?

A. That's right.

Q. You have used that service exclusively during that period of time?

A. I have on my north business.

Q. I am talking about your north shipments, shipments into the northwest?

A. Yes; I have.

Q. And that has been entirely satisfactory?

A. It has been satisfactory; yes, sir.

Q. You have not seen occasion to avail yourself of any other carrier into the northwest during that period of time?

A. No; I haven't.

Q. Have you made any investigation as to whether or not any other carrier could give you more expeditious service?

A. I have. I have looked over tariffs and advertising literature and information from time to time, and I don't find that they can do any better than I am getting at the present time.

Q. Than you are getting at the present time?

A. That's right.

938 Q. And if there were a service which you could obtain which would give you the more expeditious service into that territory, would you use that service?

A. More expeditious? I believe I would.

Q. You would?

A. Yes.

Q. Well, do you know whether——

A. (Interrupting.) You understand that we are interested in the fastest service. That's our—[pause].

Q. You knew that there was a delay in your shipments at Medford, is that right?

A. I believe, yes, at Medford.

Q. You know that there was interchange?

A. I knew that there was an interchange due to handling and so forth.

Q. Does that in any manner interfere with your shipments in so far as your customers are concerned?

A. The interchange at Medford?

Q. Yes.

A. Well, it just depends upon how low he is on his stock and he is waiting for that particular shipment. If it is not so important, maybe a day doesn't make any difference to him. But if it is very important, we will get a letter about it.

Q. Have you had any occasion to make any complaint as to that delay to the Oregon-California-Nevada Fast Freight?

939 A. No; I haven't. No.

Q. Then insofar as you can now recall there has been no complaint offered by any of your customers by reason of that delay?

A. No; not in the past.

Q. Not in the past?

A. Not in the past.

Q. In other words, the service which you are now receiving and the service which are now giving to the customer is entirely satisfactory, isn't it?

A. Apparently, yes.

Q. And you have had no occasion to complain? The customers made no complaint to you?

A. No; I have no complaints.

Q. And at the present time that meets your needs and requirements, does it not?

A. Well, no, not necessarily. If there is a better service up there, that's the service that I am particularly interested in and desire to maintain.

Q. You have had no reason to make any complaint about it?

A. Under the present service, no.

Q. And none of your customers have seen fit to make any complaint?

A. No; no correspondence in regard to delays.

Q. And it is entirely satisfactory to you, the service which

940 you now receive, isn't that true?

A. It is satisfactory, yes; to a certain extent. As I say, if a faster service can be obtainable, that would be more satisfactory.

Q. Would a through service, say, from San Francisco to these various points be of any advantage to you?

A. Very much so; yes.

Q. Did you know that there were such through services now available to you?

A. Is that from San Francisco?

Q. Yes.

A. Yes; I did. I know that there is some services.

Q. You have not had occasion to use Pierce Auto Freight Lines in the past four years, you say?

A. I believe in the past four years possibly two or three times where the customer has specified the routing I have used them.

Q. And the customer, did he find any complaint?

A. I haven't had any complaint on those shipments, no.

Q. Did you know that there was a daily through service offered by Pierce to these points?

A. Yes; I do.

Q. And you have had no occasion to use it at all?

A. I haven't any occasion at the present time.

Q. Insofar as you are concerned?

941 A. No.

Q. Under the circumstances, if that were a more expeditious service would you use it?

A. I believe I would; yes.

Q. You "believe" you would, but you haven't up to the present time?

A. I haven't; no.

Mr. ROBERTS. I think that is all.

By Mr. FARRENS:

Q. Mr. Bishop, in order to understand your testimony a little better I would like to know this: You say you have one dealer at Lakeview?

A. Yes.

Q. Does that dealer also handle the commodities of your direct competitors or is he exclusive to your line?

A. He runs a general mercantile up there and he also handles our competitors' line up there.

Q. Is that true throughout the territory?

A. That is; yes. In our line it is highly competitive up there; very much.

Q. Now, via what transportation line do you have your shipments delivered to Hillsboro, Oregon?

A. Delivered to Hillsboro, Oregon?

Q. Yes?

A. Well, I don't know just exactly who the delivering carrier is there off-hand, but all I do is mark my ladings "Oregon-Nevada motors" from here and let them take care of it.

942 Q. Did you know that there is railroad pick-up and delivery service available to you between San Francisco and Grant's Pass which accomplishes first afternoon delivery?

A. I do; yes.

Q. And do you use that?

A. I have sometimes occasionally used that.

Q. Do you use it only when the shipper specifies it?

A. I do; yes, sir; yes.

Q. Where it is possible for you to control the shipment you have? I am talking now between San Francisco and Grant's Pass. You have given those shipments to the Oregon-Nevada-California Fast Freight?

A. I have; yes, sir.

Q. Did you know that railroad pick-up and delivery service was available to you between San Francisco and Medford with first morning delivery?

A. I do; yes, sir.

Q. And have you used that service only when the shipper specified it?

A. I have; yes, sir.

Q. Did you know that after August 15th first afternoon railroad pick-up and delivery service will be available to you between San Francisco and Roseburg?

A. I didn't know that; no.

943 Q. If such service is available to you beginning August 15, 1940, which, of course, will be long before this case is decided, will you——

Mr. BEROL (interrupting). How do you know that?

By Mr. FARRENS:

Q. Will you take advantage of this railroad service and turn your shipments that move from San Francisco to Roseburg over to railroads because of their ability to deliver that shipment at an earlier date than this applicant can now deliver it?

A. If they can make a much faster service I believe I would; yes.

Q. So that you think after August 15th, with that service, they will be able to enjoy your traffic between San Francisco and Roseburg?

A. Yes; sir.

Mr. BEROL. Counsel is now joining the traffic department.

By Mr. FARRENS:

Q. I understood you to say that in response to one of Mr. Berol's questions you found the present Oregon-Nevada-California Fast Freight service superior to that which you enjoyed from the Pacific Truck Express four years ago. Is that correct?

A. That is true; yes.

Q. But in the past four years you have not patronized Pacific Truck Express at all?

A. Only when it was specified by the customer where he pays the freight.

Q. Where the customer has specified Pacific Truck Ex-
944 press routing during the past four years have you subsequently received complaints from the customer concerning the manner in which Pacific Truck Express handled that shipment?

A. No, no; I haven't.

Q. So that where the consignee has specified Pacific Truck Express routing, as far as you know that service has been perfectly satisfactory during the past four years.

A. As far as I know, I have had no complaint returned. Therefore I consider it satisfactory.

Q. You are aware that Pacific Truck Express furnishes a through service without interchange of lading at any intermediate point between Portland and San Francisco?

A. Yes, sir.

Q. Are you aware that there are about eight or nine hours delay at Medford in the joint service of this applicant and Consolidated Freightways?

A. To what points?

Q. Between San Francisco and all points north of Medford? You knew that there was an interchange, of course?

A. I knew that there was an interchange. Yes; sir.

Q. And did you know that there was a delay of about eight or nine hours where the freight laid over at Medford?

A. No. I didn't understand that there was no delay in the service.

Q. If you had understood that, would you have insisted
945 to the Oregon-Nevada-California Fast Freight that they make some arrangement to cut out that long delay there?

A. Well, as I said before, there has been no complaint. Therefore, I haven't had any occasion to make any investigation in regard to that.

Q. Now, just to pick an example among your competitors, in the territory between San Francisco and Seattle do you meet the competition of Black Manufacturing Company?

A. We do; yes, sir.

Q. Do you meet that competition in the territory south of Portland?

A. South of Portland? Yes; we do.

Q. Just looking at the question from the standpoint of reason, is there any more reason why you should enjoy a through service to points north of San Francisco than there is why through service should be made available to Black Manufacturing Company to points between Seattle and San Francisco?

A. I don't think I understand your question. Will you give me that again?

Chairman TERRIL. Read it, please, Mr. Reporter.

By Mr. FARRENS:

Q. Maybe it was not very clear and distinct. Just on the standpoint of the question of fairness, don't you think that the competitor located in Seattle would be entitled to through service to points south of Portland just as much as you would be
946 entitled to through service to the same points from San Francisco?

A. He would be entitled to the better service that is available, yes.

Q. And if you follow that theory out to its logical conclusion that would be true between all points in the country, would it not, where there is competition?

A. Yes.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. Have you utilized the services of the Los-Angeles-Seattle Motor Express?

A. I have a couple of customers that specify routings over that line; yes.

Q. Have you ever routed anything over it?

A. No; I haven't.

Q. Have you ever investigated the service that they offer?

A. I have made a partial investigation just on the strength of these two customers. I believe that in just a recent routing, as a matter of fact, in the past two months, that I got that routing and I have checked the service as much as—the information that I could possibly find out.

Q. Do you know that that is a through service?

A. I do know now; yes.

Q. And it is offering second morning delivery in Portland and Seattle?

A. That's right.

947 Q. And that is all that you expect to get from the applicant here on the proposal, is it?

A. In regard to what?

Q. Second morning delivery to Portland.

A. I believe that's their contention.

Q. Yes. Do you ship much of your product north of Portland to and including Seattle?

A. Yes; we do.

Q. Do you have more moving into that area than you have between Medford and Portland?

A. No, no.

Q. How would the volume compare?

A. Well, the volume between—let's see. In there the territory would be about a 75–25 percent break or something like that.

Q. 25 north of Portland and 75 Portland and south?

A. That's right.

Q. As to the 25 percent north of Portland, how are you shipping that at the present time?

A. In that respect that goes rail.

Q. It goes all rail?

A. At the present time it goes rail. As I say, that business up in there is Montgomery-Ward and Sears, Roebuck territory as for as our business is concerned, and the majority of that goes rail.

Q. Do they specify the routing on that?

948 A. They do.

Q. Then I take it that 40 percent of your shipments are such that the customer specifies rail?

A. About 40 percent; yes.

Q. And the whole 40 percent are consignee specifications of routings?

A. Yes; 40 percent. That's right.

Q. Now, then, some of your customers or your consignees specify the routing by truck also, apparently?

A. That's right.

Q. What percentage of the total amount that you ship by truck is the routing specified by the consignee?

A. About 8, 10 percent, I would say.

Q. Eight or ten percent?

A. Yes.

Q. So that leaves you in control of the routing of 50 percent and your consignees control the routing of 50 percent of your total shipments.

A. Yes.

Mr. IVERS. That is all.

Redirect examination by Mr. BEROL:

Q. These 40 percent of the shipments that move by rail, they were not taken into consideration when you gave the estimates of tonnages moving north, were they?

A. No, sir; they were not.

949 Q. You just referred to truck shipments?

A. That's right.

Q. And as to those you control the routing of at least 90 percent?

A. That's right.

Q. Now, you were asked some questions regarding the Los Angeles-Seattle Motor Express. Did you make any investigation as to what facilities, if any, they had available in San Francisco?

A. No, I haven't; nothing more than I could check up with the drivers on the few pick-ups that I have had; that is, what information I could get from them in that respect.

Q. So you don't know as to whether they have any facilities in San Francisco or not?

A. No: not exactly.

Mr. Ehrol. That is all.

Recross-examination by Mr. Ivers:

Q. Do you use the Routing Guide? Do you subscribe to it?

A. Yes; we have the Guide. The Shipper? You mean the Shipper's Guide?

Q. A routing guide published by Shipping News?

A. Oh, yes. I have a copy of that.

Q. And have you ever referred to that to find out what facilities Los-Angeles-Seattle Motor Express has?

950 A. Well, I looked up when I—the first routing I got over that L. A.-Seattle shipment, I looked it up in that Guide. It just so happened that it was only two weeks previous to the time that I got a copy of the Guide.

Q. And you found a listing in there?

A. I found the listing in there in the truck section.

Q. Setting out all their facilities?

A. Their offices and——

Q. (Interrupting.) Yes.

A. Yes, and what information is in there.

Q. And have you had occasion to notice that the Cascade Fast Freight and Pierce Auto Freight are also contained in that Routing Guide?

A. I have. Yes; I have. I have noticed them in there in the list of trucks.

Q. And have you ever taken the occasion to note the information that is contained in the Routing Guide concerning those various services?

A. Just roughly, yes; just glanced over them. I haven't had occasion to delve into them, but I have noticed them there going down the list looking for certain other information in that book.

Q. The fact is that you were satisfied with Oregon-Nevada-California Fast Freight and you weren't looking for any other trucking service at the time?

951 A. I had no occasion to at the time.

Q. Because you were satisfied with Oregon-Nevada-California?

A. That's right; yes.

Mr. IVERS. That is all.

Mr. BEROL. That is all, Mr. Bishop. Thank you very much.

(Witness excused.)

Mr. BEROL. Call Miss Goodell.

WINIFRED HOPKINS GOODELL was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. What is your full name, please?

A. Winifred Hopkins Goodell.

Q. And you reside in San Francisco?

A. I reside in San Leandro. I work in San Francisco.

Q. San Leandro, I beg your pardon. What is your occupation?

A. I am the Secretary for the Quicksilver Producers Association.

Q. And what is the Quicksilver Producers Association?

A. Do you want me to really tell you?

Q. Yes.

A. We are quicksilver brokers. We buy the quicksilver from the mines and broker it in flask lots to New York or to other eastern shipments or for shipments to gold miners or different places where they use the quicksilver. We also redistill it and use it for dental and chemical uses in bottles.

Q. In the conduct of your business do you have occasion to

952 make shipments to any points in Oregon?

A. We have more shipments coming from Oregon than we have going out.

Exam. KEPHART. Miss Goodell, I wonder if you would turn around a little more so the reporter can hear you.

The WITNESS. Yes.

Exam. KEPHART. Thank you.

By Mr. BEROL:

Q. And from what points in Oregon do they come?

A. The ones we are interested in mostly now come from Fields, Oregon, and from Portland and Eugene. We have shipments also going out to Black Butte, but those are empty flasks going to a mine that they ship directly to us to New York, when they ship their silver, you see. So our only shipments to them are empties going back.

Q. Respecting the shipments from Eugene, how frequently do they move?

A. We have been having recently shipments about ten times—ten or twelve times a month.

Q. And what would be the average weight of the shipment?

A. Well, they vary from one to three and four flasks. A flask weighs 86 pounds gross weight.

Q. How have those shipments been moving?

A. They have been coming to us by Consolidated Freight, and then Oregon-Cal. at Medford.

953 Q. Have you had any difficulties with the service as available to you?

A. Yes. We have had a great deal of difficulty especially from that one point, because those people draw a draft on us at their bank when they ship and the draft comes through to our bank much before the shipment comes through, and we have to wait until the shipment comes in order to weigh it before we can pay the draft. And it leaves the draft outstanding against our credit at the bank.

Q. Do I understand that at the present time your shipments leaving Eugene do not arrive in San Francisco until the second day?

A. Oh, they—it is more than that. We have about a six-day spread between when they leave Portland. This mine ships either from Portland or Eugene, whichever way the truck happens to be going, you see, from the mine.

Q. Have you investigated to ascertain what caused the delay?

A. Well, I have called recently, the last three or four shipments, to find out the difficulty. And I find that the delay is caused above Medford, that when the Oregon-Cal. gets them at Medford they come right straight through. But the bill of lading from the Oregon-Cal. dated at Medford, the date that they receive it, is about five days after the shipment was made from Portland and the delay is from Portland to Medford.

Q. And you say that the delay is from Portland to Medford?

954 A. You don't believe me, but you should see our bill of lading.

Mr. BEROL. I think, Miss Goodell, that everybody around the table here are all very anxious to believe you.

Exam. KEPHART. Mr. Schafer should hear that. Five days from Eugene to Medford.

Mr. SCHAFER. I don't believe it! I represent Consolidated Freightways.

By Mr. BEROL:

Q. Now, Miss Goodell, do you understand that under the proposal of the Oregon-Nevada-California Fast Freight they will run a through service from Eugene to San Francisco, making it possible for quicksilver to leave Eugene in the forenoon and arrive in San Francisco the following morning?

A. Yes.

Q. Will that kind of service be helpful to you in the conduct of your business?

A. Yes; it would.

Q. And are you anxious to have it made available to you?

A. Yes; we would.

Q. And would you use it if it is made available to you?

A. Yes.

Q. Have you had occasion to use the services of the Oregon-Nevada-California Fast Freight insofar as shipments to or from Nevada points are concerned?

A. Oh, a great deal.

955 Q. What is the experience that you have had with that company to and from Nevada as compared with the experience from Oregon?

A. They are very satisfactory from Nevada. There is no delay whatever. The shipments come right through.

Q. Based upon your experience with the Company insofar as the services of the Oregon-Nevada-California Fast Freight are concerned, would you say they are a reliable transportation agency?

A. Oh, yes.

Q. And you will use them if their service is made available?

A. Yes; we would use them.

Mr. BEROL. I think that is all.

CROSS-EXAMINATION

Mr. SCHAFER. May I ask a question on this other point?

By Mr. SCHAFER:

Q. I just walked in the door when you said that "They told me the delay occurred north of Medford." That is all you know about where the delay occurred, is what they told you?

A. We have—when the shipments arrive with us, we have a copy of the Oregon-Cal. bill of lading, which is dated at Medford, the date—and they tell me that that is the date that they receive it, the date that the bill of lading is dated.

Q. That is one of the advantages of connecting service. There is always somebody to pass the buck to.

956 A. Our shipper writes us the date he is making the shipment and he draws on us either that day or the next day, and we have the dates of those drafts and the dates of those letters to refer to, and so we are pretty sure of the date that the shipment started.

Q. You don' know how long the shipment laid at Medford? You have no way of knowing that?

A. We have no way of knowing that.

Mr. SCHAFER. That is all.

Chairman TERRIL. Your shipments from the northwest originate either at Portland or Eugene, is that correct?

The WITNESS. Largely, yes; mostly at Portland.

Chairman TERRIL. None from points east of Portland? Central Oregon?

The WITNESS. The only place that we have is at Fields, Oregon. That is in eastern Oregon, is it not?

Chairman TERRIL. There is the Mercury Mines up in the Ashvale and Bonneville territory.

The WITNESS. We have had shipments from there, but not recently.

Chairman TERRIL. Not in recent years.

The WITNESS. Oh, in recent years; not in the last year, maybe.

By Mr. SCHAFER:

957 Q. I am informed that that particular shipment that you spoke of from Eugene actually originated on another carrier's line, was hauled in and turned over to Consolidated at Eugene. Where is the mine that originated that shipment?

A. Well, I don't know exactly where the mine is. We have the post-office address in Eugene, but they make their shipments mostly from Portland and the supposition is that the mine is away back in the hills some place between, you see.

Mr. SCHAFER. That is all.

By Mr. ELLIS:

Q. As I understand it, you don't know how the shipments are moved from the mine to Portland or from the mine to Eugene?

A. The mine truck takes them down.

Q. And is it not entirely possible that much of this delay that you have encountered occurs between the mine and Eugene or the mine in Portland on the mine track?

A. No. You can't get your draft until you have your bill of lading, and they can't give them the bill of lading until they receive the shipment. Then the date of the draft is the date on which we are going, you see. The day they draw is the date of their draft and there are sometimes as much as five and six days

discrepancy between that day and the day that we receive the shipment. And they have to have a bill of lading before they draw their draft.

Q. Do you uniformly use truck service in the movement of these quicksilver shipments?

958 A. We use it a great deal; yes.

Q. Quicksilver is rather a valuable commodity, is it not?

A. Extremely valuable, especially right now.

Q. Have you ever experimented with Railway Express service?

A. Oh, we use P. M. T. a great deal.

Q. Do you use Railway Express?

A. Railway Express is too expensive. We do use it. Yes, we use it frequently if it is specified, or often the shippers say, "Send it in Railway Express." And we don't care what they send by.

Q. Have you ever had any difficulty with your Railway Express service?

A. It is good, quick service. It is more expensive.

Q. Your only objection to it, then, and the principal reason you have used the truck service of this applicant has been the fact that the rate situation has been an advantage?

A. Yes. We use truck service as largely as possible because of the rate. The rate is so much cheaper than rail rate.

Q. And thus far you have been willing to put up with this delay, such as has occurred, in order to get the benefit of the lesser rate?

A. Well, the shipper specifies in this case which way they shall ship. They just ship it any way they want to and we pick it up any way it comes in.

Q. And the shipper is really the one who suffered from

959 the delay because he doesn't get his money until the shipment is delivered to you in San Francisco?

A. He suffers that way. We suffer because of the draft being outstanding against our credit in the bank, and we can't pay it, and we don't like to let them stand out three or four days before they are taken up, you see.

Q. Have you ever suggested to the shippers that they route their shipments via some other form of transportation?

A. They sometimes ship by Pierce Auto. That comes down then through Valley Express.

Q. Have you had shipments via Valley Auto during the last month?

A. We had one in July.

Q. And did you encounter any such delay with their service?

A. It wasn't quite so bad. I think it was a four-day service.

Q. Four-day service from——

A. (Interrupting.) From Portland. They come down from Portland.

Q. That shipment was during July, you are certain?

A. I have the date right here if you want it.

Q. We would be very much interested.

A. That was shipped on the 13th. That is, that was the date—we had no bill of lading for it, you see, from the Pierce Auto Freight. We had the letter from the shipper that he was shipping on the 13th and we received it on the 15th.

Q. 13th, and received on the 15th?

960 A. Yes. That is three days.

Q. You don't know what time on the 13th the shipper was delivering the shipment?

A. No; I don't know.

Chairman TERRIL. Where did that originate?

The WITNESS. They all originated in Portland.

Chairman TERRIL. They all originated in Portland.

The WITNESS. Yes. Then we had one shipped on the 11th which didn't get here until the 16th, but that was Consolidated Freight.

By Mr. ELLIS:

Q. Actually on the Pierce shipment you got, if that shipment was delivered on the afternoon or evening of the 13th, it then would leave Portland on the evening of the 13th and you actually got two days' service on that?

A. Yes; we did: 13, 14, 15. Yes.

Q. If Pierce Auto Freight is giving regular second-day service between Portland and San Francisco evedy day in the week except Sundays at the present time, of a quality such as you have obtained on that one shipment, wouldn't that largely meet your needs?

A. Except that we prefer Oregon-Cal. because the Valley Express make only one delivery a day to us after they get it in here.

Q. And you have continued to use Oregon-California-Nevada Fast Freight with the four- and five-day service by reason of the interconnection with Consolidated Freightways, notwithstanding Pierce has given you two-day service?

961 A. This routing is all chosen by the shipper.

Q. What would your preference be? If you can get two-day service from Pierce and three- or four- or five-day service, you say, from this applicant and his connection, which service would you use or recommend to your shipper?

A. Well, we would recommend any service that is quicker. Our quarrel is with the delay. That's what——

Q. (Interrupting.) Have you had occasion to recommend to

them as a result of th experience that they use a direct service of Pierce Auto Freight Lines?

A. I never have.

Q. I suggest that you do that.

A. You suggest that I do what?

Q. Recommend the Pierce service.

A. If you were the shipper you wouldn't suggest that. I have a terrible time with them getting them to change their customs and their ways. They are mining people and——

Mr. BEROL (interrupting). They are almost as stubborn as some lawyers.

A. (Continuing.) We don't tell them what to do. We just let them do as they please.

By Mr. ELLIS:

Q. Do I understand that the shipper up in Oregon is the one who chooses the Oregon-Nevada-California Fast Freight as the delivering carrier, or do they merely choose the originating
962 carrier, the Consolidated Freightways, and let Consolidated route the shipment from Medford south?

A. Well, I suppose that's the way it is. I don't know.

Q. That the shipper turns the shipment over to Consolidated?

A. The shipper turns the shipment over to the Consolidated and it comes down to us through Oregon-Cal. I don't know who reroutes it at Medford.

Mr. ELLIS. That is all.

Chairman TERRIL. Miss Goodell, I didn't catch the very first of your testimony. Do I understand that these three- and four- and five-day shipments from Portland and that territory are the general rule, or are those the exceptions?

The WITNESS. No. They have been the general rule right down the line from the 1st of June.

Chairman TERRIL. Of this year?

The WITNESS. Yes; and then after June.

Chairman TERRIL. Do you have any record prior to that time?

The WITNESS. I haven't any record with me; no.

Chairman TERRIL. Do you have any independent recollection as to what your experience was prior to that time?

The WITNESS. No; because prior to that time the shipments were being made in larger quantities and were being put on board the ships at Portland and shipped directly to our order in New York.

Chairman TERRIL. I see.

963 By Mr. FARRENS:

Q. Miss Goodell, Southern Pacific Company between Portland and Eugene, on the one hand, and San Francisco, on the other, furnishes l. c. l. pick-up and delivery service on the basis

of the third morning. Pacific Truck Express between those points furnishes delivery on the basis of the second morning.

A. Yes.

Q. Pierce Auto Freight, as indicated there, gives you second morning delivery. Now, in view of the fact that all those services are outstanding and available for use as compared with these five-day deliveries you have been getting over the Consolidated Freightways and the Oregon-Nevada-California Fast Freight, I take it that you are not here complaining that the services of the other carriers are not adequate, but that the true nature of your complaint is that the service of the Consolidated Freightways and the Oregon-Nevada-California Fast Freight from Portland, between Portland and Eugene, on the one hand, and San Francisco, on the other, is inadequate and your shipper won't change to these other faster carriers, and that, therefore, you want this particular applicant and his connection, or this applicant alone, to improve their service?

A. That's right.

Mr. FARRENS. That is all.

Mr. IVERS. That is all.

964 Mr. BEROL. Thank you very much, Miss Goodell.

(Witness excused.)

Chairman TERRIL. I think we might have a short recess.

(Whereupon a short recess was taken after which proceedings were resumed as follows:)

Chairman TERRIL. You may proceed.

Mr. BEROL. Call Mr. Barry.

R. E. BARRY was sworn and testified as follows:

DIRECT EXAMINATION

Mr. BEROL. Maybe I can shorten this. I will offer a stipulation that Mr. Barry is employed by the De Laval Pacific Company of San Francisco; that he ships dairy equipment and industrialized centrifugals; that he ships to all points between Medford and Portland, including Vancouver, Washougal and Camas, Washington; that the shipments are approximately three times a week; that they are seasonal between February and August; and that the average weight is between 50 and 500 pounds per shipment; that he will testify that the thing he is primarily interested in is faster service; that the service that he has been using is the combination of the Oregon-Nevada-California Fast Freight and Consolidated, and that it has been satisfactory as far as it goes, but that his primary interest is a faster service than is now offered by the applicant.

By Mr. BEROL:

Q. Is that substantially correct?

965 A. That is absolutely right.

Mr. BEROL. Might I ask if the proffered stipulation is acceptable to all parties?

Mr. FARRENS. I am willing to stipulate that he will so testify on direct examination.

Mr. IVERS. And I.

Mr. ELLIS. And I.

Mr. ROBERTS. And I likewise.

Chairman TERRIL. The record may show that all protestants have agreed to the stipulation as to the direct testimony of this witness.

You may cross-examine, then.

Cross-examination by Mr. ELLIS:

Q. Have you recently used this combined service?

A. We have used it this week already.

Q. Do you know to what particular points?—What particular points do you have in mind that you have used it?

A. Well, in a great many towns and cities in Oregon and Washington. We have dealer organization all through those states.

Q. Do you have in mind any particular place that you have shipped to the past week?

A. Well, there is Seattle, Lakeview, Klamath Falls.

Q. On your shipments to Klamath Falls do you know

966 what time the shipment left here and when it arrived at Klamath Falls?

A. No. That I don't know.

Q. Do you know what time your shipment to Seattle was delivered?

A. No. I have no occasion—that is, I have had no complaints or anything.

Q. So far as you are concerned the service has been reasonably satisfactory to meet all your existing needs?

A. It has been very satisfactory; yes.

Q. Were you aware of the fact that there were other competing carriers, such as Pierce Auto Freight Lines and Pacific Truck Express, that were giving a through service to points in Oregon particularly?

A. Yes; especially the Pacific Truck.

Q. Have you used their service?

A. Only when the dealer so specifies, and I have found through experience lately that there are certain points that the Pacific Truck Service is better, maybe, than other lines, and I got that mostly through complaints.

Q. Have you used the service of Pierce Auto Freight Lines?

A. Very seldom. If I have it has been specified by the customer.

Q. Were you aware of the fact that they are at the present time operating daily through service to Medford and points north as far as Portland?

967 A. No; I don't believe I have been posted on that.

Q. And in the event that that daily service of Pierce Auto Freight Lines is available without interchange of freight at Medford, is there a possibility you would divert some of your traffic to that line?

A. If it was an improvement on the service I would, as far as time is concerned.

Q. You haven't had any occasion to investigate, however, to ascertain whether there was better service via the Pierce line?

A. No; I haven't.

Q. Are we to assume from that that your failure to investigate is because you have been reasonably satisfied with the service you are now getting from this applicant and there has been no particular occasion to investigate to see if there were better service available?

A. No. We have been satisfied and I guess our customers have because, after all, it is the complaints that wake us up to investigate.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. In other words, If I understand you correctly, your customers have not complained of the present combined service of this applicant and Consolidated Freightways?

A. That's right.

Q. But you have been informed that this applicant proposes to operate through and that would obviate the interchange at Medford?

968

A. That's right.

Q. And have you been informed also that there are about eight or nine hours' delay during which the freight lays over at Medford before it is picked up by the applicant's connecting carrier?

A. Yes.

Q. And from your standpoint would it be desirable that that delay were eliminated?

A. Oh, absolutely.

Q. If that delay were eliminated in such a fashion that there would be the same kind of a stop at Medford as if it were a point for a through line, that would meet your situation, would it?

A. Yes; it would.

Q. You have had no complaints concerning the service in the instances in which the customer has specified Pacific Truck Express routing, have you?

A. Just one point. That was Astoria, if I remember right. We shipped over Oregon-Cal. and they complained about the freight charges and told us to ship Pacific Truck hereafter.

Q. And the service thereafter was satisfactory?

A. Yes.

Mr. FARRENS. That is all.

969 By Mr. IVERS:

Q. Are you familiar with the service of the Los Angeles-Seattle Motor Express?

A. No; I am not.

Mr. IVERS. That is all.

Mr JENNINGS. No questions.

Mr. BEROL. That is all, Mr. Barry. Thank you very much.

(Witness excused.)

Mr. BEROL. Call Mr. Holmes, please.

B. J. HOLMES was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Your full name is B. J. Holmes?

A. That's right, sir.

Q. You reside in San Francisco?

A. Yes, sir.

Q. What is your business?

A. I am a broker, sales agent and wholesale jobber in poultry and dairy products, butter, eggs, cheese and poultry, dressed turkeys.

Q. And you do business under the name of "B. J. Holmes Sales Company"?

A. That's right.

Q. Are you familiar in a general way with the nature of the application that is pending here?

A. Not a hundred percent. In fact, I don't know what
970 body I am appearing before. I would like to have this all straightened out and clarified in my mind.

Exam. KEPHART. The Interstate Commerce Commission.

The WITNESS. Yes, sir. That is satisfactory.

By Mr. BEROL:

Q. And you understand that the applicant, the Oregon-Nevada-California Fast Freight, is seeking permission from the Interstate Commerce Commission to institute a through truck service between Portland, Oregon, and San Francisco, California.

A. I understood that; through.
Q. All the way through?
A. That's right.
Q. Serving all the intermediate points?
A. That's right.
Q. Do you have occasion to ship to or from the Oregon area?
A. Some 99.9 percent.
Q. From what points in Oregon do you ship?
A. Portland, Canby, Salem, Albany, Eugene, Roseburg and Medford in Western Oregon; and miscellaneous coast ports in Central Oregon, Redmond and that territory, and up on the River Hermiston and that territory.
Q. As to miscellaneous coast ports, do you mean Coquille, Marshfield?
A. Astoria and occasionally out of the Coos Bay section, too.
Q. With respect particularly to your shipments of
971 commodities from the intermediate points—strike that.
Particularly as to your shipments from points in Oregon from Portland south on Highway 99, the points that you have mentioned, those shipments consist of butter, eggs, cheese and poultry?
A. Dressed turkeys.
Q. And dressed turkeys?
A. Yes.
Q. Is that a year-'round movement, Mr. Holmes, or is it a seasonal movement?
A. No; it is a year-'round movement with the heavy percentage coming in the commodity of dressed turkeys coming through the months of November, December, and January, and again the greater movement in May and June. That is the heavy volume, but there is a steady volume year-'round in all the commodities.
Q. As to these six months where the movement is heavier, how frequently do you ship on the average?
A. Oh, sometimes several times a day. We have had as high as 65 carloads or equivalents in big truckloads in the yards in one morning. So under those conditions it would be sometimes we would load several times a day out of each point.
Q. Are you in a position to tell me as to whether the bulk of your shipments come in truckload or less than truckload lots?
A. The bulk is—in the holiday season the bulk is truck-
972 load, and the other season less than truckload.
Q. Less than truckload?
A. Yes.
Q. In the movement of these commodities——
A. (Interrupting.) The total weight would be truckloads or more; that is, the total volume, yearly volume.

Q. By the number of shipments, would you say the bulk would be l. c. l.?

A. L. c. l.

Q. Are you in a position to give me an idea as to what your annual tonnage south-bound is?

A. I could give you a pretty close estimate. I could give you a very close estimate. We keep track of our volume in dollars and cents, if that would be sufficient.

Q. We would be glad to have it; yes.

A. Annually, you want it?

Q. Yes.

A. It would be around four million pounds; between four and five.

Q. Between four and five million pounds a year?

A. Yes, sir.

Q. Is the movement of these commodities on through equipment without interchange of lading at any points?

A. Extremely. It is the only type we will use.

Q. Now, is refrigeration——

973 A. (Interrupting.) Particularly on dressed poultry and turkeys.

Q. Now, is refrigeration of any importance to you?

A. Extremely. We won't entrust our commodity to any line or any carrier that doesn't give us not only refrigeration but the refrigeration that we ask for.

Q. Have you any preference as to between mechanical refrigeration, wet ice or dry ice?

A. Yes. We want—well, in our rail experience, our experience with the freight lines, the ice is very satisfactory if it is handled properly. But in truck lines mechanical refrigeration—we have never had any success with dry ice in the truck lines.

Q. Why is that, do you know?

A. You can't get uniform temperature. They freeze the commodities around it, and a few feet away the temperature is too high.

Q. And you understood that the applicant here is offering mechanical refrigeration?

A. I do; yes.

Q. Have you had any experience in the past with attempting to get satisfactory motor truck transportation from these Oregon points to San Francisco?

A. Plenty.

Q. Will you briefly relate as to what your experience has been?

974 A. Well, when the holiday movement strikes it is always a problem of proper and sufficient equipment, because the

tonnage that we are going to move, we don't know it until it is on top of us. And speaking of turkeys principally now, a turkey grower might have a flock of 10,000 turkeys and give an estimate at a certain time in a certain market. He will kill 1,000 or 2,000. When he gets into that flock, instead of the 2,000 that he would like to top out he would like to move the whole 10,000. So we may have an estimate that we will get so many turkeys today and have five times that many, or it may work the other way. So when the peak season hits us, it is always a problem to get equipment other than freight, rail or express car lots. Of course, we are always able to get that equipment.

Q. Is time in transit a matter of any importance to you?

A. Is time?

Q. Yes.

A. Yes; extremely; very much so.

Q. Do you understand that under the applicant's proposal it will have two schedules daily from Portland, one in the morning and one in the evening?

A. No. I didn't understand that. I understood it would be a daily service.

Q. And it is a daily service?

A. Uh-huh [affirmative].

975 Q. Making delivery in San Francisco being available for delivery approximately 24, 25 hours later, and out of all points in Oregon, Eugene and south, he will be in a position to make delivery to San Francisco the day after departure from Oregon?

A. Uh-huh [affirmative].

Q. Would that be a satisfactory, desirable service to you?

A. Yes, extremely so; if the rate is right and he gives us the right refrigeration and loads the product right and handles it right. We have always had a battle on that with everybody, rail, express, and everybody, and we are still working on them. There is a lot of money involved in the product and a lot of dynamite in it, and the stock is paid and we pay the freight and we reserve the right to have it handled right. We are battling on that and will continue to do so.

Q. Assuming that the applicant has the service proposed here, is that the kind of service that you desire?

A. I would say it is very useful.

Q. Have you been able to get all the service offered by the applicant in the past?

A. No. Intermittenly, yes; but there is always a problem in the peak season.

Q. If the service is made available by the applicant will you use it?

A. Again there is a proviso. If your rates are proper and you handle the merchandise right, you are bound to get some
976 of the business. You are bound to, quite a lot of it. We have never had any complaint yet, as I recall, over the Oregon-Cal., who handle our stock, and they have brought in quite a bit out of Medford and Nevada points, and so forth.

Q. Have you had occasion to use the Oregon-Nevada-California Fast Freight between points served entirely by their line?

A. Yes.

Q. And as to those shipments that you have transported over their line where it was served entirely by their line, what has your experience with them been?

A. I don't remember a complaint, to be honest with you, out of Nevada and Southern Oregon. I don't recal a definite complaint as to its—in fact, I don't recall any complaint.

Q. And based upon that experience that you have had with them; insofar as they were able to move shipments over their own line, you feel that the type of service that they offer is one that is suitable and satisfactory to your purposes?

A. I would think so. We have called in the Oregon-Cal. to pick up rush loads l. c. l., or even truckloads for Nevada innumerable times, or to come out of there, to pick up out of here or out of Oakland, or to come out of Nevada, and we have always fund them right on the bell.

Q. And based on that experience, it is your view that, if they were in a position to operate a through service to these points
977 in Oregon in which you are interest, you would likewise have available to you a satisfactory service?

A. I would say so, yes; judging from the——

Q. (Interrupting.) That is the reason you are here testifying before this commission?

A. That's right. The Oregon territory, the producers we represent up there and the people we represent, it is a surplus-producing area. They have two markets: they have the east which, of course, takes the long rail haul, and they have California. And I am their agent here and it is my job to work for their interests as much as it is possible, and transportation is one of those jobs and it has always been of importance to us.

Mr. Berol. I think that is all. You may take the witness.

Chairman Terril. Mr. Holmes, of these four million pounds that you ship a year, do I understand that that is from the Northwest?

The Witness. Yes; that is from Western Oregon.

Chairman Terril. And moves principally down Highway 99, which is the highway that runs through Medford and Roseburg and those towns?

The WITNESS. It originates out of Portland south, yes; to and including Medford.

Chairman TERRIL. Of that four million pounds, how much approximately moved by motortruck?

978 The WITNESS. That is hard to say. Quite a percentage would move by rail, straight Southern Pacific rail.

Chairman TERRIL. Can you make a rough estimate as to the percentage that would move by truck?

The WITNESS. Oh, you mean that has moved, sir?

Chairman TERRIL. That has in times past.

The WITNESS. That has in times past moved by truck?

Chairman TERRIL. Yes.

The WITNESS. Yes. I think I can hit it pretty close. I would say between a third and a half.

Chairman TERRIL. During the past year have you used the facilities afforded by the combination of Consolidated Freightways and this applicant?

The WITNESS. A little; not very much; a little.

Chairman TERRIL. You understand that they offer a through refrigerated service through interchange of trailers at Medford out of that territory at the present time?

Mr. BEROL. Only from Portland, your Honor.

Chairman TERRIL. Yes; from Portland.

The WITNESS. That is the Consolidated Freightways and the Oregon-Cal. combined?

Chairman TERRIL. Yes.

The WITNESS. Yes; they offer a carlot service only?

Chairman TERRIL. As I understand it, it is a refrigerated trailer service from Portland through into San Francisco.

979 The WITNESS. We have had——

Exam. KEPHART (interrupting). In truckload quantities.

Mr. BEROL. No; that is either truckload or less than truckload. But it is not available to any of the intermediate points. It is available only to Portland.

Exam. KEPHART. The witness asked whether it was in truckload quantities and I raised the question.

Mr. BEROL. Either truckload or less than truckload out of Portland only.

The WITNESS. The only thing that comes out of Portland is produce that is originated in the Willamette Valley and goes on to Portland for freezing and concentration, but the bulk of it comes starting Salem south.

Chairman TERRIL. Most of it comes from Salem south?

The WITNESS. Yes. We had those trailers in our buildings several times, those Consolidated trailers.

Chairman TERRIL. If mechanically refrigerated truck service

were available would you increase the tonnage that is moved by motortruck?

The WITNESS. I don't think there is any doubt of that, due to the time factor alone. We like rail service, but they are pretty slow out of there. We like rail service for carlots for several reasons. If you want the reasons I will be glad to give them to you.

Chairman TERRIL. Well, it might be of interest.

980 The WITNESS. Well, from a broker's angle, you put a straight carload of turkeys or dressed poultry into a reefer car and you designate the ice and select a car that is tight and sound, you are pretty safe in assuming that you will have a certain temperature on that product until the time it is tendered for delivery to you. Furthermore, it is subject to diversion very easily. You can pick up the telephone and get the PFE man and tell him just what you want to do with that. If the car comes in the morning it is taken over safely and held where you want it. Of course, the rate is a factor, too. It is always a reasonable rate. I just want to make it clear to you as to the reason why a lot of this goes into car movement when time isn't a factor. But oftentimes time is a factor and the freight is entirely too slow.

Chairman TERRIL. And that is when you use the trucks?

The WITNESS. Trucks, l. c. l., and there is quite a big movement.

Chairman TERRIL. You ship products other than dressed poultry? You ship butter, eggs or cheese in truckload lots at any time?

The WITNESS. Oh, yes. We ship cheese and butter, eggs.

Chairman TERRIL. Is that in truck or trailer loads, or in l. c. l. shipments?

The WITNESS. Both, sir; mostly l. c. l.; mostly l. c. l. The movement on eggs the last year has been pretty light out

981 of that territory; very light, due to the fact that the FSCC has been buying eggs at the terminal points—Seattle, Portland—paying the same as they pay in San Francisco. So it stopped the bulk of that movement from there this past year.

Chairman TERRIL. But the estimate of your tonnage included all the commodities that you move from that territory?

The WITNESS. Yes, sir.

Chairman TERRIL. Have you sought services from motor carriers, refrigerated service or any other, and have been unable to secure truck facilities for the movement of your commodities when you needed it?

The WITNESS. Oh, yes; quite often. That has happened in the field. Of course when we hit the heavy holiday movement we are

extremely busy at this end with marketing and we have people at the other end to take care of it. On the turkeys, for instance, we have a manager at Brooks, Oregon, Mr. J. C. Leedy. That is his baby, and instead of me trying to line up trucks up there we work with him. But quite often it has been an impossibility to get trucks when we needed them during the peak movement.

Chairman TERRIL. Cross-examine, gentlemen.

Cross-examination by Mr. ELLIS:

Q. What percentage of the shipments which you move to San Francisco actually terminate here?

982 A. Terminate here?

Q. Yes.

A. A hundred percent.

Q. A hundred percent?

A. With the exception of a few eastern rail cars of butter that come out of the East and eventually are diverted to Los Angeles.

Q. You said something about the advantage of using rail service because you were able to convert to other destinations. I understood from that that you did have occasion to divert some of those shipments from San Francisco to other rail destinations.

A. I will make that clear to you, sir. Let us get right down into a Christmas week and we have 65 carloads of turkeys in the yard, one man to handle them. We have got 40 customers in Oakland and San Francisco. Maybe we don't know where 20 of those cars are going this morning, but we will hold them out on Bayshore someplace and during the day and during the night we will find a customer at Oakland or down here in the produce row, or out at South San Francisco in some place, and those cars will land on Armour or Swift tracks in South San Francisco, or one of our customers like that. That is what I meant by "diversion."

Q. Would some of those be diverted to Los Angeles?

983 A. No; not very often. But the butter movement originating out of the Middle West, we quite often divert them to Los Angeles. We stop them here for inspection, but if the Los Angeles market is a better market we send them through, but not very often.

Q. Your shipments of turkeys are substantially all in volume during the holiday season, or immediately preceding the holiday season, I assume.

A. The big movement will come in November and December, and then we have another one in January and February, what we call the "feeder" movement. There are two movements: there is a holiday movement in November and December; there is a feeder movement in January and February, maybe a week in March; and

there is the breeder movement in the latter part of April, May and June.

Q. November, December and January, February shipments would be about what percentage of your total?

A. On turkeys?

Q. On turkeys.

A. It would be 80 percent; 85 possibly.

Q. Do you anticipate, of course, that a motor carrier which provided sufficient refrigerated equipment to handle your turkeys during those four months might have some difficulty in using the equipment the balance of the year?

A. That's right, I certainly do. That's why we have never particularly protested it.

984 Q. Have you ever had occasion to use this through trailer service of O-N-C and Consolidated from Portland?

A. Not from Portland, but from some of the other points I think some of the trailers have come through.

Q. You knew that that through trailer service was available?

A. I didn't know the details of it. Nobody has ever called on me or clarified or made it very clear, that I can recall.

Q. Have you ever had occasion to call on Oregon-California-Nevada Fast Freight and suggest to them that you would like to have through trailer service from Roseburg or Grants Pass or any of your other shipping points?

A. Not specifically or definitely. We have worked with all the carriers. We worked with the Railway Express and Southern Pacific and different truck lines in a general way trying to improve service and tell them what we had to have and how we had to handle it, not to put the boxes on end and a thousand other things. We have taken those things in our stride from day to day. But I don't think specifically or definitely we ever approached anybody.

Q. You have neither approached the O-N-C or anyone else suggesting that you should have through trailer service or through truck service from points in Oregon?

A. No. Just in a general way, as I say, we have all worked on it. Mr. Leedy has worked on it and I have worked on it.

985 Q. And in the main, as I understand your testimony, you have had little or no complaint of the service afforded you by this applicant and by it connecting carrier in the handling of your products; but in a more general way, because of the nature of your commodity, you are never quite satisfied with the service that you are getting from anyone?

A. That's right. We get squawks every day or so from the various shippers along the line. We got a wire in from Roseburg the other day that a poultry shipment on which he had drawn a thousand-dollar draft was still in his place. It should have been

in my place and sold. But it was still in his floor. He said that the truck had broken down and couldn't take it. The next one came along and had no room for it. That was his position.

Q. Are you aware of the fact that the Pierce Auto Freight Lines is at the present time operating through daily service from Portland serving all of those intermediate points, and that it had mechanically refrigerated equipment available?

A. Pierce?

Q. Yes.

A. They never called on us and told us about their service; not on me, anyway. They might have called on some of my boys out there. I have a small organization. I handle most of the work. But I think we have had a little stuff from Pierce. I won't swear. I won't swear to that. I think Pierce has handled something into our place.

986 Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Mr. Holmes, I take it that your problem is very different from that of the average shipper who has a fairly steady volume throughout the year. Yo uare somewhat like the general who is forced to move an army in holiday time.

A. Yes. Other than that, every week in the year there is certain surplus produce moving out of Oregon and we are interested in getting it handled right. There is butter and a steady movement of dressed poultry and some turkeys and a few eggs.

Q. Isn't it a fact, however, that your real serious problem is one that arises at the holiday time, as far as transportation is concerned?

A. Well, yes. It is in those four, about five or six months there; about six months.

Q. And, incidentally, the feeder movement in the spring does not move with refrigeration?

A. Oh, yes; very definitely. They are highly perishable, just like everything else.

Q. Is that by rail?

A. Some of it by rail, but it has come all ways: rail and truck; it has come express. You see, with poultry the temperature must be progressively downward. After you kill a chicken or
987 turkey the temperature can't be fluctuating up or down. And we don't want any interchange of the commodities. We won't stand for that.

Q. I think that when the holiday season is on your demand for refrigerated transportation is so great that you are compelled to patronize approximately all the different lines of transportation service that are available.

A. At times that is true.

Q. So you have had experience with all the various different lines?

A. By and large; yes.

Q. The fault with this applicant's service from the Northwest at the present time consists, first, of the interchange at Medford and, second, of the lack of through refrigerated service, as I understand it. Is that correct?

A. You mean that is—you say the "fault" now with the Oregon-Cal.?

Q. The fault of the service.

A. The service at the present time?

Q. Yes.

A. If that's true that would be a fault; yes. They have certainly got to have continuous refrigerated service available and a straight through run without any interchange or else we would not want to use them.

Q. If the two lines—this applicant and the Consolidated Freightways—eliminated the eight or nine hours' delay
988 which exists at Medford now in connection with the interchange and ran refrigerated equipment through, without such a delay, that would meet your demand, would it not?

A. Time is always a factor.

Q. Time and refrigeration are the two factors?

A. That is the two factors, and particularly on turkeys. The butcher selling your wife the turkey wants as fresh a turkey as he can get. Therefore, that means it must be speeded from the time the turkey is killed until it goes into the butcher's hands.

Q. Out of these two companies operating their interchange at Medford out of the same terminal, if the Consolidated started its refrigerated equipment at the point of origin where your shipments are received and the equipment went clear through the interchange with proper refrigeration, your needs would be met, would they not? I mean, you are familiar with the fact that the railroad interchange their equipment freely, are you not?

A. Carloads?

Q. Yes.

A. Well, that doesn't affect us because we know what the movement is going to be. We know what the delivery is going to be when we load, and we know what the temperature is going to be.

Q. Let us get our thoughts together on this.

989 A. I didn't quite get your question.

A. One railroad line ends here and connects with another movement beyond.

A. Sure.

Q. They don't——

A. (Interrupting.) We give the routing lots of times. We get three or four rail lines. There is no objection to that.

Q. They go through on the car notwithstanding the interchange?

A. That's right.

Q. If Consolidated Freightways and this applicant were to do the same thing with their equipment and it were to arrive here without any interchange of lading at any intermediate point and it came to you in the same well-refrigerated unit in which it was loaded, without any delay at the point of interchange, that would meet your needs, would it not?

A. Well, it looks to me like that is an operating detail. I don't know.

Q. It is an operating detail.

A. I don't see why I should help to try to settle that question.

Chairman TERRIL. All he is asking you is, Would that meet your needs as far as transportation is concerned? If they could accomplish this trip without interchange or delay would that meet your needs?

Mr. BEROL. It is more than an operating detail. It is 990 a mountain.

By Mr. FARRENS:

Q. I am not trying to ask you to see whether that can be done. I am asking you whether or not, if it can be done, that would meet your needs.

A. Now, let's make my position clear. I haven't any axes to grind. None at all. Not for anybody anywhere. I want to get at the facts of this thing and I am willing to contribute what little I can from my 25 years' experience, which has been real. I have dressed the product out in the field in sheep tents under the worst conditions trying to get it through to the eastern consumers, and what we are primarily interested in is affording a service from all these points that I have mentioned, whether it be for 10 boxes of turkeys or a thousand; to go out that night and get them down here right. And, of course, I don't know whether it would be exactly comparable there, your interchange of trailers to the railroad. If we put an order out CNW-UP-SP, why, we are not worrying about the CNW and UP. We are worrying about the SP. They are the boys that are going to be responsible to us. It is his baby, that car. They can send CNW and UP. We are not concerned with that. If there is anything wrong with it, it is not handled right, time or refrigeration, we don't have to worry about the other fellow. If that is true here, I suppose it would be quite comparable.

Chairman TERRIL. That is what Mr. Farrens wants to know.

991 If a truck line could establish the same interchange of equipment that is established by rail lines, would that provide a satisfactory t ansportation service to you?

The WITNESS. Well, I don't know. I presume so. If you get what we are after——

Chairman TERRIL (interrupting). He is not asking you whether the truck line can do it or not, but if it could would it provide the service.

Exam. KEPHART. Would it be satisfactory to you?

Chairman TERRIL. You can answer that question "Yes" or "No."

The WITNESS. Can I?

Chairman TERRIL. I think so.

The WITNESS. Now, I may be dumb, but would you mind putting that again to me?

Chairman TERRIL. Read it.

The WITNESS. I want to be fair in this. I want to be right. I am not trying to be funny. I want to get this straight.

By Mr. FARRENS:

Q. I want to be fair with you, too, Mr. Holmes. We are contending here—at least I am—that the fault in this service, with this nine hours' delay at Medford and its unloading and loading at Medford, is an avoidable thing; that you don't have to extend the Oregon-Nevada-California Fast Freight service from Medford north to Portland.

992 A. Are you contending that you do not have to?

Q. Yes.

A. To give the servide?

Q. In order to get the results. And you may not know it, but the Consolidated Freightways is applying to extend its service from Medford south to San Francisco.

A. I see.

Q. Each invading the other's territory. Now, the protestants in this case—or at least myself—I am contending that they can cut out that nine hours' delay at Medford. There is no sense in the trucks lying for nine hours. They can pick them up and go on with them, and I am contending that they can interchange equipment just as the railroads. They don't have to stop with interchange of trailers. They can change motor power, too. They can interchange with trucks at Eugene, Medford; and when they get to Medford they can turn it over to the driver of the other company and come on through. I am contending that that can be done.

Mr. BEROL. I will stipulate that it can be done, but subject to the same delays as it is done on the part of the railroads.

A. I would rather leave it to the gentlemen here of the Interstate Commerce Commission to make that decision. I am telling you what we need and I will leave it to these gentlemen up
993 there [indicating]. It is their job to decide whether that is right or not.

By Mr. FARRENS:

Q. What you need is to have your product loaded on the truck at point of origin and brought without delay to destination.

A. If we want the box up, we want it that way. If we want 32-degree refrigeration, that is what we would like. It is really very simple when you get right down to the meat of it.

Q. If you get that with the loading as you want it, under the refrigeration as you want it at the point of origin, on the piece of equipment that is hauled through without delay to San Francisco, that will satisfy your needs?

A. Providing the rate is right and good service, and all, and I imagine under those conditions they will get some of the business. I would rather leave it to these gentlemen here [indicating] in this body.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. You have been able to move all of your commodities down here in the past, have you not?

A. That's a pretty broad question, sir. If you wait long enough you can always move anything you have, of course. But we have not been able to move it when we wanted to move it.

Q. You have been able to move it?

A. Eventually move it. Eventually, yes, but that wouldn't suffice.

Q. You have, in the past, adjusted your business to what
994 service you have been able to get during that peak period?

A. Well, naturally. We haven't gone out of business. We have certainly adjusted our business to what we have been able to get.

Q. Who has been hauling these turkeys down here during this peak period?

A. S. P.. Mitchell. I could name a dozen of them.

Q. I would like to have you name as many as you can name.

A. I will have to go to the files to be accurate about it.

Q. Well, do you know the Pacific Refrigerated Truck Lines?

A. Pacific Truck Express?

Q. No; the Pacific Refrigerated Truck Lines, Lubisich.

A. I don't recall them.

Q. Do you know whether they have ever hauled any for you?

A. I doubt it very much.

Q. Did Pacific Truck Express haul any for you?
A. Yes.
Q. Cascade Fast Freight?
A. Oh, yes.
Q. Colletti Fast Freight?
A. I think in years gone by; yes, sir. I don't recall any lately.
Q. Los Angeles-Seattle Motor Express?
A. I don't think lately.

995 Q. If the kind of service that you indicate you need would cost more money would you be willing to pay a higher rate to get it?

Mr. BEROL. That is objected to upon the ground it is incompetent, irrelevant, and immaterial; on the further ground that the applicant's proposal here contemplates a service offered at the present rail rates; no proposal here to provide the kind of service that is proposed at any higher rate than existing prevailing rates.

Mr. JENNINGS. If the Board please, I believe the witness testified that he would use the service providing the rates were "right."

Mr. IVERS. Were "right."

Mr. JENNINGS. "Right."

The WITNESS. We reserve the right to make the decision as to whether——

Chairman TERRIL (interrupting). Just a moment. I don't believe that we are concerned with the question of rates here. The objection will be sustained.

Mr. IVERS. All right. I will ask the question which pertains to the same thing in a different way, which I think might disclose the pertinency which I had.

By Mr. IVERS:

Q. Is the reason why you, for instance, have used Mitchell Brothers, but have not used Los Angeles-Seattle Motor Express

996 for the transportation of this poultry from the points which you have named to San Francisco been due to the fact that the Los Angeles-Seattle Motor Express rates were somewhat higher than Mitchell Brothers?

A. It has not. No, sir. We paid rates all the way from 65 cents to $1.35 out of those Western Oregon points, Canby and so forth. I know that from memory.

Q. Now, as a matter of fact, there are various carriers with various rates. There is no such thing as a prevailing rate at the moment, is there?

Mr. BEROL. Just a minute. The same objection.

Mr. IVERS. Counsel's previous objection was made on the basis that they propose a service at the prevailing rates.

Mr. BEROL. At the prevailing rate and in effect at the present time by the Oregon-Nevada-California Fast Freight in conjunction with the Consolidated Freightways. Now, I was talking about our prevailing rate.

Mr. IVERS. Oh, well, that is different. I will withdraw the question.

By Mr. IVERS:

Q. In your statement that you would use this service if the rates were "right" as one of the conditions, were you indicating that you would use the service proposed by the applicant at the rate the applicant now has on file?

A. I don't even know what it is. If you want me to clarify my statement as to what I meant when I said that if the rates were "right" I will be glad to do it.

Q. I would like to have, yes.

997 A. All right. There are several factors that come into that. We have used an express rate of $1.35 out of Canby or Salem at times and considered the rate right because the time factor was involved there and it was worth that much more to us than to wait three or four days later to wait for rail and take a chance on getting a truck or not to get a truck. We knew that by sending it Railways Express it would be here by nine o'clock tomorrow morning. It will cost you so much money. That is what I meant when I said "If the rates were right." I think it is quite reasonable.

Q. In other words, there are certain market conditions at odd times which permit you to pay a higher rate in order to get the turkeys here to meet that market?

A. If necessary, yes. If there is a squeeze, sure. Of course, we are not considering that right now as a year-around dish, though.

Q. Well then, laying aside these market emergencies or emergencies created by the necessity of covering commitments, what did you mean when you said if the rate was "right" the bulk of the time?

A. Well, if I knew just what you are trying to find out now—— do you want me to name the rate for you?

Q. No, I don't. But you said that you would use this service providing the rate were "right," the loading were "right," and various other factors.

998 A. That is correct.

Q. Now, speaking of all those conditions, with no emergencies involved, I want to know what you meant by the rate being "right," as a condition to utilizing this service.

A. Well, we have used all these other services with the rates that

they now have. We have used the rail in car lots, we have used the express, we have used different truck lines, and I think that question has been sort of automatically answered. I don't know. We don't make these rates. We have to live with them.

Q. You utilize rail service at rates cheaper than trucks, do you?

A. Do we?

Q. Yes. Are the rail rates in car lots cheaper than the truckload rates?

A. Yes, I think they are.

Q. Does that in any way have any bearing upon your use of rail service?

A. Oh, sure; that and other factors.

Q. Are any of the prevailing truckload rates offered by any of the carriers that you have named equal to the rail rates?

A. I don't think so. I think they run a little bit higher, if I recall it.

Mr. IVERS. That is all.

By Mr. JENNINGS:

999 Q. I believe you testified that you were representing a number of shippers in Oregon.

A. I am representing the B. J. Holmes Sales Company, which is B. J. Holmes. It is a fictitious trade name, that's all. And I am also representing, as sales agent, these shippers in Oregon, these producers, these producer groups and these different firms that entrust the marketing and handling of their product to me.

Q. Do you generally specify the routing or do the shippers specify it?

A. Well, we work together on it. We work together on it. They can't tell much about it. They very rarely get here, get on the market. And one big factor is how they come out of the lines here, what the facilities are, the convenience and conditions and so forth. So we practically become the dominating factor in selecting the routing; in an indirect manner, however. In other words, we are behind the scenes. The railroad loses some business. He goes after the fellow that made out the bill of lading, but it is the wrong party. It is most likely the ones who told him that they don't want any more to come out of the line. Do you see what I mean there? You get what I mean. We are here to handle it. That is our job. So the shipper don't battle with us at all. He will be very glad to select any carrier that we might tell him to.

Q. Do you represent any shippers north of Portland?

1000 A. The Consolidated Dairy Products in Seattle is one of my accounts, but they are very intermittent.

Q. Do you have shipments of butter, eggs, cheese, and poultry all at the same time?

A. Oh, sometimes; yes.

Q. Do you expect those all to be handled in the same truck?

A. No.

Q. By separate equipment for the different classes?

A. Oh, sometimes butter and eggs and poultry and turkeys, dressed turkeys, can all be handled very satisfactorily in the same equipment. Cheese should not go in there.

Q. Poultry does not have to be cold enough to——

A. (Interrupting.) No. In other words, we can load rail cars out of Minnesota, put butter, eggs, and poultry in there, and have them all laying very nicely. A little bit about freezing: When it comes to frozen turkeys, then you want your turkeys below freezing. When it comes to cheese, you want it by itself. You don't want it with the poultry, eggs, and turkeys.

Chairman TERRIL. Any further cross-examination?

Mr. BEROL. That is all. Thank you very much, Mr. Holmes.

(Witness excused.)

Mr. ELLIS. If the Court please, the protestants have one
1001 witness who, we are just informed, will have to leave and cannot be here later in the session. I wonder if we can propose to Mr. Berol to ask the privilege to produce this shipper witness out of order at this time.

Mr. BEROL. When?

Mr. ELLIS. Now.

Mr. BEROL. No We have witnesses here whom we have been keeping under assurance that they are immediately going on. I will have no objection this afternoon, but we have two shippers here now whom we promised could get on this morning. I will gladly accord any time this afternoon to Mr. Ellis for the purpose of putting some such testimony on, but I am not willing to waive my time now.

Exam. KEPHART. We only have three-quarters of an hour of this forenoon left.

Mr. BEROL. We have two witnesses. If the Board wants to accord the privilege to counsel of putting his witness on after those two, we shall gladly accommodate counsel.

Exam. KEPHART. You say this is a protestant witness?

Mr. ELLIS. Yes.

Chairman TERRIL. Let us go off the record here for a minute.

(Remarks outside the record.)

Mr. BEROL. I will call Mr. Stark.

J. GLENN STARK was sworn and testified as follows:

1002 Direct examination by Mr. HANDLER:

Q. Will you state your name, please?

A. J. Glenn Stark.

Q. Where do you reside, Mr. Stark?

A. 426 Vienna Street, San Francisco.

Q. And what is your business or occupation?

A. I am with the American-La France Foamite Corporation, 439 Ninth Street, San Francisco.

Q. What is your position with that firm?

A. I have charge of the stockroom, shipping, and receiving.

Q. How long have you been with the firm?

A. I have worked for them 10 years, but not in this office altogether.

Q. How long here?

A. Since 1936, of October.

Q. In what commodities does your company deal?

A. Fire-fighting equipment and fire-prevention materials.

Q. Are you generally familiar with the application now pending before the Board?

A. Slightly. I was told that you were asking for a permit to carry on freight to your—beyond Medford.

Q. Beyond Medford to Portland?

A. Yes.

Q. And intermediate points, and the Coos Bay area, Coquille and Marshfield, and Lakeview, Oregon. Do you have oc-
1003 casion, or does your company have occasion to ship its merchandise to any of those points?

A. Medford. I might put it this way: Our business is such that it goes all over the country. In other words, we have a branch in Los Angeles, one here, at Portland, Seattle, and Spokane. This is a central supply for those other branches.

Q. In other words, you supply those branches from San Francisco?

A. The majority of their materials are shipped from here.

Q. And in addition to that, Mr. Stark, do you furnish fire-fighting equipment and machinery to fire-fighting companies in various other cities?

A. Oh, yes; indeed. That is part of our service, is to service all fire engines that are now in operation in the various municipalities or in smaller towns over the country.

Q. Do those communities include points between Medford and Portland, such as Salem and Eugene?

A. Yes, and Ashland.

Q. Roseburg, Grants Pass?

A. Grants Pass and Seattle and Portland.

Q. And how about Vancouver, Camas, Washington?

A. Camas, yes. Vancouver sometimes is handled out of the Vancouver office. We have a branch at Vancouver.

Q. Anything in Marshfield, Coquille?

A. Marshfield, occasionally.

1004 Q. How about Lakeview, Oregon?

A. I don't recall Lakeview; but Longview, yes.

Q. What transportation facilities have you been using for those shipments?

A. In our business speed is the essence of the business. It must be—if a fire engine breaks down the Board of Fire Underwriters, the National Board, sometimes raises insurance rates. Therefore, we use Railway Express or a truck that we know is a reliable carrier where they are dependable and established routes. We use truck routes.

Q. How often do you have shipments into the area I have described?

A. That's a very hard question to answer due to the fact that it might be that possibly there wouldn't be a break-down in any of those points, oh, for indefinite periods of time. But, on the the other hand, there may be several in a month.

Q. Considering the whole territory would you say that you had a movement to some point in that area every day?

A. I would say at least every other day.

Q. At least every other day?

A. Possibly every day for a week, and then it might go for a week that we didn't have any.

Q. What are the minimum and maximum sizes of those shipments?

A. The minimums run anywhere from possibly five pounds up to, well, I wouldn't know what the gross weight would be

1005 because sometimes you ship a transmission or differential and it runs into about 600 pounds. A motor weighs 2,000. A cylinder block, there are three of those to a motor, and they weigh 186 pounds each.

Q. Can you specifically name the other truck carriers that you have been using in these areas?

A. I haven't used any of the others other than Oregon-Cal. north for about a year. Some time about a year ago I made one shipment to the Standard Oil Company and it is a little hazy in my memory just now where it went, but I think it was around Bremerton, Washington. I am not sure, some place up there. And I shipped that Pioneer. But I haven't shipped maybe the one shipment to Pioneer.

Q. Was that Pioneer?

A. Oh, no. Pierce Auto Freight Lines.

Q. Pierce Auto Freight Lines?

A. Pierce.

Q. Was that service satisfactory?

A. Well, unfortunately in this case it wasn't.

Q. And since that time do I understand you have been using the applicant's service?

A. As much as possible. Sometimes I can't.

Q. As to points north of Medford has the applicant's service been satisfactory?

A. I don't recall but one kick-back, and I got a telegram
1006 the other day where we had made a shipment to a customer there some place. I think it was at Longview, Washington; the Long-Bell Lumber Company. I received two telegrams wanting to know when we had shipped it and how.

Q. You have then experienced some delay by reason of the interchange at Medford?

A. Apparently.

Q. Which has caused complaint from your customers?

A. I don't know what the delay was, but sometimes there is a delay some place. I don't know where it occurs.

Q. Would you prefer that a through service be available to your company?

A. It would greatly facilitate our shipments.

Q. I understand that these shipments are largely emergency in character.

A. The majority of them are in this respect. Anything pertaining to apparatus is. However, the stock points, such as the branch interchange or the transfers, they anticipate those far enough ahead that we can ship that by most any route and it wouldn't make much difference.

Mr. HANDLER. You may cross.

Cross-examination by Mr. ELLIS:

Q. You maintain a fairly complete stock of parts and materials at your Portland, Seattle, and Spoke branches?

1007 A. Not a large stock in any of those; very small.

Q. But you attempt to maintain enough to reasonably meet the needs of your trade?

A. Yes; that is true.

Q. And it is fair to classify the shipments that you are talking about here as emergency shipments?

A. Except—I will put it this way: We have two types of shipment. Anything that is an industrial matter or a stock transfer isn't so imperative in the essence of speed because they anticipate that, as I said, far enough ahead to keep their stock in that replenished. And where it would be an emergency, anything pertaining to an apparatus or repairs to an apparatus is an emergency case.

Q. You do use Railway Express, I assume?

A. Uh-huh [affirmative].

Q. For some of your shipments?

A. Quite.

Q. For other shipments you use truck lines?

A. Between the Los Angeles branch and the San Francisco branch we use the California Motor Service, and north, where it is possible, we use the Oregon-Cal.-Nevada line, and into Reno, Nevada, we use that same line.

Q. Under what circumstances do you use rail service for your shipments?

A. Sometimes they want it air express and we use air-
1008 planes. Sometimes we use Railway Express where it is a case of a truck line not going into that town and the rail does.

Q. I assume your emergency shipments are of such a character that the matter of the rate that you pay is not of primary importance?

A. That is of secondary consideration.

Q. On this occasion, when you used the service of Pierce Auto Freight Lines, as I understand it, that was to a point north of Portland?

A. Yes; it was.

Q. Bremerton, Washington?

A. I wouldn't say positive it was Bremerton, but some place in that vicinity.

Q. Do you know where the delay occurred?

A. I only know this much: The Standard Oil Company called me in and said they hadn't received the material ordered on a certain purchase order and shipped to that point. And I said, "Well, I will check and see. You should have had it. It has been gone about three weeks, approximately." I didn't know exactly. I just remembered it. So I called up the Valley, I guess it was; Valley Motors.

Q. Valley Express?

A. Valley Express, or something. They told me they would check it up. And they wrote a letter north to the terminus of
1009 this shipment and found that it had been received and signed for by one of the Standard Oil employees on a certain date. That was quite a long time, I think, from the time the shipment was made, or else they had—I never did quite find out where the delay came. So I called the Standard and told them it had been received, that they had signed for it. And that was the last I heard about it.

Q. You don't know under what circumstances the delay occurred?

A. No. I am not familiar with what the delay was and where it occurred.

Q. You understood, of course, that this applicant was not proposing to serve Bremerton, Washington, or any point north of Vancouver and Camas, did you not?

A. I don't know. They just said they were extending the service beyond Medford, I think, Portland and Seattle. Portland?

Q. Did you ever have any occasion to make a complaint to this applicant concerning its service?

A. No. I have had very good satisfaction.

Q. And in the main it has served your transportation needs so far as truck operations are concerned?

A. It has been very desirable.

Mr. ELLIS. That is all.

Chairman TERRIL. Any further cross?

Mr. FARRENS. Yes.

By Mr. FARRENS:

Q. Mr. Stark, what is it that is of importance to you?
1010 The connection with the proposed extension of this applicant's service to Portland? Is it the factor of having the shipment handled all the way on one truck by one company?

A. Well, not necessarily. It would be this: If it would speed up the service, yes.

Q. Well now, were you advised that there is a delay of about eight or nine hours while the shipment lays over at Medford before it is taken by the connecting carrier?

A. I don't recall it.

Q. You didn't know that that condition exists?

A. You mean it is going to be or has been?

Q. No, has been.

A. Oh, yes; I knew that. I think it is transferred there to Consolidated Freightways, or something.

Q. And you knew that there was a delay of eight or nine hours?

A. I knew there was a delay, but I didn't know how much.

Q. If that delay were eliminated so that the freight went right on through that interchange, would that satisfy your particular needs?

A. I imagine it would on certain shipments. Those that are not imperative, it would, but the ones that are in a hurry, we would like to get those right through.

Q. Can you see any reason why this applicant and the Consolidated Freightways couldn't handle on through equipment?

1011 A. I am not much of a traffic manager. I get the brunt of these kick-backs when the customer comes along and says, "Where's our shipment? Our engine is out of service."

Q. Well, your attitude and position in this case is simply that

the service has not been as fast as you would like to have it and that these applicants think that they can, and you would like to have this applicant speed it up.

A. Yes.

Q. It doesn't make any difference how it comes, just so the results come.

A. That is a secondary consideration.

Q. If they would improve their joint through service so it would make the same time as they would make with the single-line service, that would suit you all right?

A. I don't know how you can do that. Any time you can have a transhipped consignment and if you have a concealed damage or anything wrong with the shipment, then you trace it or there is delay in delivery, it necessitates going through two carriers and maybe the third carrier. And if you call the man you consigned the shipment to he will say, "Well, I'll trace it for you." And from there on he goes to his various relays and that creates delay.

Q. Mr. Stark——

A. (Interrupting.) Another thing that is bad: The Government is one of our customers and they always want their
1012 shipments f. o. b. destination.

Q. Mr. Stark, the necessities of your shipping requirements are such that you must have through service from San Francisco by one line to every point you ship?

A. No; I didn't say that. No; I didn't say that.

Q. What I was asking you was this: Does it make any difference to you whether the speed up of the service is accomplished by improvement of conditions at the interchange or whether it is accomplished by the extension of one line?

A. Your question is confusing.

Q. Let us suppose that the interchange arrangement between the companies was improved to the extent that the delay there was eliminated and the operation of a joint through service is just as fast as a single-line operation, so that you have got, as far as the time element is concerned, just as quick delivery at the other end.

A. That would eliminate the time element.

Q. Yes; that would eliminate the time element and that is the thing that you are concerned about, is it not?

A. In one respect, and it reverts back to what I said awhile ago. Suppose there is a damage in that shipment and then you are tracing through two carriers instead of one.

Q. As a matter of fact, you don't do that, do you? If there is damage occurring on a joint-line shipment, you go right after the carrier to whom you delivered the shipment.

1013 A. Sure. But it necessitates him going to the other carrier and delays the information.

Q. It delays the settlement?

A. Not only settlement, but I don't know whether to make a second shipment or not.

Q. Well, with that exception, the curing of the time element would be all that you need to have done?

A. Quite.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. Do you ship to Seattle?

A. Yes.

Q. Well, this applicant does not propose to run through to Seattle, so that there will be a necessity, if you use this applicant's service, for an interchange at Portland for Seattle. Would you advocate for that reason that this applicant should run straight through to Seattle?

A. I am not suggesting. That is up to the Railroad Commission.

Q. Well, would your same reason apply, that you, on tracing a shipment, would rather have them run straight through to Seattle?

Mr. HANDLER. I object to that upon the ground it is incompetent, irrelevant, and immaterial, and beyond the issues of the case.

Chairman TERRIL. I think the witness may answer.

1014 The WITNESS. Will you repeat the question?

Chairman TERRIL. Read the question.

Mr. IVERS. Read it.

(The question referred to was read by the reporter as above recorded.)

A. That would be one reason, and another would be that it would facilitate delivery without a doubt if it went straight through.

By Mr. IVERS:

Q. Do you ship to Pendleton?

A. No; I haven't.

Q. Do you ship to Astoria?

A. Occasionally, but very seldom.

Q. Would you reason the same way as to the shipments going through Astoria?

A. Practically all shipments reason the same way.

Q. So that you would rather be served to all points to which you have occasion to ship by one line going all the way through to the same points?

A. It would be desirable.

Q. Do you know that there are carriers offering a through service from San Francisco to Portland and from San Francisco to Seattle at the present time?

A. Yes; I knew it.

Q. And have you ever utilized any of their services?

A. I haven't from this branch, but they have, I think, in
1015 our Los Angeles branch.

Q. And your needs have not been great enough, have they, to require that you go out and investigate any of these other carriers?

A. No. In some respects practically all of our shipments, I would say, other than the warehousing or transfer of stock, are emergency shipments. Therefore, we have to ship by the easiest and quickest way we can get it: air express; sometimes Railway Express; sometimes air mail; anyway that it gets there best.

Q. Do you know that there are carriers now operating to Portland and Seattle that offer the same service as this applicant now proposes to institute?

A. I think there is one or two.

Q. Have you ever found it necessary to use them in order to get those shipments through?

A. Well, in some instances I think we have made—where a customer has specified certain routing, I believe we followed their routing; otherwise we have used our own.

Q. I am asking you if you found it necessary to use the service of these carriers who now offer the same time in transit that the applicant proposes here.

A. Well, I don't know. I can't say definitely whether we have or whether we haven't.

Q. Well, have you used any of them of your own volition?

1016 A. Not of my own volition.

Q. Not of your own volition?

A. No.

Mr. IVERS. That is all.

Chairman TERRIL. You may be excused.

(Witness excused.)

Mr. BEROL. I might state that, in order to assist Mr. Ellis in getting on the witness that he was anxious to place on the stand, we will offer to stipulate the testimony of the next witness, both on direct and cross.

Mr. HANDLER. In that connection I make this offer: that Mr. G. C. Irvine of Levingston Company, San Francisco, is the manager of that firm and would testify that that firm engages in the business of handling and selling milk bottle caps to points which applicant proposes to serve north of Medford to Portland, in-

clusive, and including Marshfield, Oregon; that shipments are made to Oregon three times a week varying from 16 to 300 pounds each; that he has used the facilities of the applicant and has found them satisfactory, except that under the proposal speedier service could be effected, which is of importance to the firm; further, the firm would prefer to use only one carrier into the area proposed to be served, so that direct service would be possible.

Mr. FARRENS. I am prepared to stipulate that the witness will so testify on direct examination.

1017 Mr. IVERS. So am I.

Mr. JENNINGS. Yes.

Mr. ELLIS. So am I.

Mr. ROBERTS. So am I.

Chairman TERRIL. The record will show that all the protestants will so stipulate.

G. C. IRVINE was sworn and testified as follows:

Direct examination by Mr. HANDLER:

Q. Have I correctly stated your name?

A. Yes.

Q. What are your initials, Mr. Irvine?

A. G. C. Irvine.

Cross-examination by Mr. FARRENS:

Q. Mr. Irvine, how have you been shipping from San Francisco to the Northwest territory?

A. We have been using Oregon-Cal. for most of it, without any specification of their rerouting.

Q. Have you shipped by rail or express at all?

A. I believe we have shipped by Northwestern Pacific; yes; Southern Pacific routing, but not very much. We don't use rail very much because of the delay in transferring.

Q. You don't use rail freight at all, I take it?

A. No; not to any extent. We may have routed one or two. We have a specified routing from Portland into Spokane.

1018 That is Spokane and Pacific line.

Q. But you do sometimes use Railway Express?

A. Not Railway Express. It is too expensive for our merchandise; parcel post.

Q. The stipulation which we have just agreed to included, among other things, a statement to the effect that your company would prefer the through services of the one carrier from origin to destination.

A. Right.

Q. Is that correct?

A. Yes.

Q. Have you used any other truck service other than that of the Oregon-Nevada-California Fast Freight and its connecting carrier at Medford during the past year?

A. We have used Pierce Auto Freight on one or two occasions.

Q. Are you aware of the fact that Pierce Auto Freight this last month or so has offered a daily through service?

A. I wasn't advised by the Pacific Auto Freight. I just learned of it at this hearing.

Mr. BEROL. He meant Pierce Auto Freight.

You said "Pacific." You meant that you weren't advised by Pierce Auto Freight?

The WITNESS. That is right. I heard of it at this hearing.

By Mr. FARRENS:

Q. And do you know then that throughout the
1019 past year the Pacific Truck Express has been offering a daily through service between San Francisco and Portland?

A. We have never investigated that; no.

Q. You have never used their services?

A. No; not to my knowledge.

Q. If your company prefers the services of a through carrier over the services of a joint line carrier, why haven't you used the service of the carriers who are giving through service?

A. We try to simplify our shipping as much as we can, and by simplifying it we get it down to as few carriers as we possibly can and get it to cover a wide territory.

Q. Well now, why would you select as the one carrier to handle the Northwest territory a carrier which operates only to Medford and there has to be interchanged with a carrier that moves the shipments to points beyond Medford when there are through carriers available?

A. To my knowledge, Oregon-Cal. covers a wider territory than the other carriers.

Q What you are taking into consideration is the service which they offer into Nevada?

A. Nevada; yes.

Q. In other words, you want a carrier exclusively who serves the greatest amount of territory possible?

A. Correct.

1020 Q. And that is a consideration which overweighs all of the inconvenience and delay which arises out of the interchange at Medford?

A. Well, no. We are looking for speed of delivery, of course.

Q. I say the fact that you can get them to serve not only the

Northwest but also the Nevada territory overweighs any inconvenience arising out of delay and interchange at Medford?

A. We have never had any complaint from that territory to my knowledge, so that hasn't been any inconvenience.

Q. As to this particular service given you by the applicant and its connecting carrier, Consolidated Freightways, you have no complaint at all?

A. We have no complaint; no.

Q. And that service is satisfactory to you, notwithstanding the fact that it is a joint line service rather than a single line service?

A. Well, we haven't had any complaints now. The future is to be determined.

Q. Well, is it a fact that up to date the joint line service of this applicant and the Consolidated Freightways has been satisfactory to you and you have not seen fit to use the services of single line carriers between the same points?

A. That's right.

Mr. FARRENS. I think that is all.

Chairman TERRIL. Any further cross-examination?

1021 Mr. IVERS. No cross.

Chairman TERRIL. That is all, Mr. Irvine. You are excused.

(Witness excused.)

Chairman TERRIL. Are you ready to call your witness?

Mr. ROBERTS. Yes.

I will call Mr. Lind.

J. W. LIND was sworn and testified as follows:

Direct examination by Mr. ROBERTS:

Q. What is your name?

A. J. W. Lind.

Q. Where do you live?

A. Eugene, Oregon.

Q. In what business are you engaged?

A. Mill and logging supply.

Q. And what type of equipment does that mean? Everything that pertains to——

A. (Interrupting.) Everything but machinery.

Q. Everything but machinery?

A. Yes.

Q. What connection have you with the business?

A. I am the owner.

Q. You are the owner of the business yourself?

A. Yes.

1022 Q. Does it ship in interstate commerce?

A Just to one town. Dunsmuir is the only place we ship to.

Q. You receive shipments in interstate commerce from the San Francisco Bay region?

A. Yes, I do; quite a few.

Q. And what commodities do you obtain?

A. It is heavy hardware.

Q. It is heavy hardware?

A. Mostly.

Q. What does the tonnage amount to approximately as to shipments?

A. Well, I wouldn't say for sure. Some months when business is going it might run five ton.

Q. And that is a seasonal business?

A. Some of it is; yes.

Q. Or is it pretty well averaged throughout the year?

A. Averaged pretty well throughout the year.

Q. And do you utilize both rail and truck facilities?

A. Mostly truck from San Francisco.

Q. Most facilities being truck?

A. Yes.

Q. Do you likewise ship what you call drop shipments, too?

A. Very few.

Q. Very few?

A. Yes; once in awhile to Medford, Ashland and Grants Pass.

1023 Q. Are you familiar with the services rendered by the present carriers of interstate freight between San Francisco Bay region and Eugene?

A. I don't know the complete set-up. All I know is that I order by truck and I specify Pierce truck. We have been doing——

Q. And you use Pierce Auto Freight Lines?

A. Quite a bit.

Q. For your facilities now?

A. Quite a bit.

Q. In your requirements. Is the service which it renders entirely satisfactory?

A. Very satisfactory.

Q. Does it meet your needs and requirements?

A. Yes, sir.

Q. Insofar as you are concerned, is there any necessity for any additional truck facilities between San Francisco and Eugene?

A. I wouldn't say that there is, as far as I am concerned.

Q. Then insofar as you are concerned and insofar as your ship-

ments are concerned and your necessities from the San Francisco Bay region, your requirements are being met at the present time by Pierce Auto Freight Lines?

A. Yes.

Q. How often do you ship, approximately?

1024 A. Well, it all depends upon my demands; sometimes maybe not for a week, and then again it might be every day for two or three weeks.

Q. It depends on what the requirements of your customers may be?

A. Yes.

Mr. ROBERTS. You may cross.

Chairman TERRIL. What would be the average throughout the year of the number of shipments that you would have throughout a month, Mr. Lind? Can you estimate?

The WITNESS. Oh, it might average a dozen a month; something like that.

Chairman TERRIL. South?

The WITNESS. From San Francisco.

Exam. KEPHART. Did you ever ship in truckload quantities?

The WITNESS. No, sir.

Chairman TERRIL. Do you use Pierce Auto Freight exclusively in this movement?

The WITNESS. I have been because I am well-acquainted with them in Eugene, because they operate out of Portland. They give me very good service up there.

Chairman TERRIL. You use them in both directions?

The WITNESS. In both directions.

Chairman TERRIL. You may cross examine.

1025 Cross-examination by Mr. FARRENS:

Q. Mr. Lind, do you maintain an inventory of your goods at Eugene?

A. Once a year.

Q. No; I don't mean "take" an inventory; I mean, you maintain a supply of goods in Eugene?

A. Oh, yes; absolutely.

Q. And you sell to what territory in Oregon there?

A. We cover from Albany to Ashland, and then I have one customer at Dunsmuir, California.

Q. And do you also sell over toward the Coast?

A. Not to the Coast; no, sir.

Q. Do you sell to the Cascade Ranges of Eugene?

A. No, sir.

Q. Your customers are the actual loggers, I take it?

A. That is what they are, and industrials.

Q. Do you have among your customers emergency orders that you have to meet?

A. Well, once in awhile; not very often. But we generally anticipate that and carry the stuff in stock.

Q. So that in the main your shipments from San Francisco are to meet your stock requirements?

A. 95 percent in stock stuff.

Q. When your emergency needs come up, have you any difficulty in procuring the transportation service?

1026 A. My emergency stuff is generally all from Portland and Seattle.

Q. Has the service of the Pierce Auto Freight Lines been so satisfactory to you from San Francisco to Eugene and other points where you handle drop shipments, that it has been unnecessary for you to investigate the services of the other carriers?

A. Well, I have had all carriers here in the last 15 years. All of them have been satisfactory.

Q. They have all been satisfactory?

A. They have all been satisfactory.

Mr. FARRENS. I think that is all.

Chairman TERRIL. Any further examination of this witness? (No response.)

Very well. Mr. Berol?

By Mr. BEROL:

Q. Mr. Lind, you stated that some months you receive up to five tons.

A. Yes.

Q. Is that from San Francisco or does that include Portland?

A. No, that—some months it will run five tons from San Francisco, yes.

Q. And the lighter months from San Francisco, what would be the tonnage during the lighter months?

A. Down to maybe a ton or two.

Q. I take it that for some time you have been using

1027 Pierce truck almost exclusively?

A. Well, here lately I have; yes.

Q. For how long a period of time?

A. Oh, for about the last two years.

Q. The last two years?

A. Yes.

Q. And that is out of San Francisco as well as out of Portland?

A. San Francisco and Portland. I don't use them exclusively out of Portland; no.

Q. I mean out of San Francisco.

A. Out of San Francisco; yes.

Q. For practically two years you have been using them exclusively?

A. All the shipments haven't been coming that way. Lots of times when I am out of town my partner, when he orders stuff, don't specify, and then it comes up Consolidated.

Q. But whenever you specify you specify Pierce?

A. I have been specifying Pierce.

Q. And do I understand that during a period of two years the shipments that you have specified by Pierce have constituted a majority of the shipments out of San Francisco?

A. The majority; yes.

Q. And is it your statement that for that period of two years the service of Pierce has been entirely satisfactory?

1028 A. Well, not only Pierce, but Consolidated. Both have been.

Q. They both have been satisfactory?

A. They both have been satisfactory.

Q. Insofar as Pierce is concerned, are you aware that until a month or so ago Pierce was operating from San Francisco only once a week?

A. I knew it; yes, sir.

Q. And therefore, insofar as your requirements were concerned, even a service that operated once a week was satisfactory to you?

A. When I anticipated my need.

Q. And the reason you could anticipate your need was because all of your shipments from San Francisco were stock shipments?

A. All stock shipments; yes.

Q. Mr. Lind, did you hear any of the testimony of the applicant, or the Nevada-Oregon-California Fast Freight, in this case?

A. No, sir.

Q. You did not?

A. No.

Q. If, Mr. Lind, some shippers appeared here and testified that their requirements were such that they needed the kind of service proposed by the Oregon-Nevada-California Fast Freight, you are not here objecting to the Commission authorizing Oregon-Nevada-California Fast Freight to serve

1029 Eugene?

A. I am not a traffic man. I am not objecting to anything.

Q. You are merely here to state that for 15 years past the transportation services in the field have been sufficient for your particular needs?

A. Except in one or two instances they have held up at Medford, but that hasn't hurt me any.

Q. And who was that held up by?

A. By Consolidated.
Q. By Consolidated?
A. Yes.
Q. Therefore, to the extent of one or two instances you were, at least to some extent, inconvenienced by Consolidated delay at Medford?
A. Well, I haven't been hurt any.
Q. You haven't been hurt any?
A. No.
Q. And that is because your type of merchandise from San Francisco is the type that does not require any particular hurry in receiving it, as far as you are concerned?
A. That's right.
Mr. BEROL. I think that is all, Mr. Lind. Thank you.
Chairman TERRIL. Mr. Schafer?
Mr. SCHAFER. I don't know that I have anything to add to that cross-examination. I will waive the cross-examination
1030 of this witness.

Redirect examination by Mr. ROBERTS:

Q. Mr. Lind, you knew that for a time that Pierce interchanged freight with O-N-C at Medford, did you not?
A. I understood that; yes.
Q. And when you speak about having used Pierce Auto Freight during this period of time when it wasn't operating a daily schedule, you knew that it did interchange with O-N-C at Medford?
A. I knew that for the simple reason that I used to get copies of the freight bills with the name "Valley Express Company" on. That was one outfit, and then "California-Oregon"—is that the same outfit?
Mr. ROBERTS. Yes, Oregon-California-Nevada.
Mr. BEROL. No; please don't misinform the witness. That is not the same.
Mr. ROBERTS. "Oregon-Cal.," he said.
Mr. BEROL. Well, I understood that the witness made the statement to counsel that the Oregon-California-Nevada Fast Freight was the same——
The WITNESS (interrupting). No; not the same concern. No.
Mr. ROBERTS. No.

By Mr. ROBERTS:

1031 Q. And that was entirely satisfactory for your needs?
A. The service has been all right for me.
Mr. ROBERTS. I think that is all.
Chairman TERRIL. That is all.
Mr. BEROL. It is a blessing to hear from a witness who is so completely satisfied with all t nsportation facilities.

Chairman TERRIL. It is very delightful to listen to it.

(Witness excused.)

Chairman TERRIL. We stand adjourned until two o'clock.

(Whereupon, at 12:30 o'clock p. m. a recess was taken until 2:00 o'clock p. m.)

1032 AFTERNOON SESSION—2 P. M.

Chairman TERRIL. We will be in order, gentlemen.

Mr. BEROL. Call Mr. Smith.

Mr. FARRENS. Just a moment before you call a witness.

Chairman TERRIL. On the record or off the record?

Mr. FARRENS. On the record.

At the Portland hearing in this case counsel for the applicant asked me to make a statement at some time before the close of this hearing concerning the future intentions of Pacific Truck Express with respect to its through operations. I have asked the management of Pacific Truck Express and Pacific Motor Trucking Company and Southern Pacific Company——

Mr. SCHAFER. Now, just a moment.

Mr. FARRENS (Continuing). To let me have a concise statement as to their policy.

Mr. SCHAFER. And are you here going to give their statement?

Mr. FARRENS. I am going to state the policy of the company with respect to future operation——

Mr. SCHAFER (interrupting). When that statement is——

Mr. FARRENS (continuing). Between San Francisco and Portland.

Mr. SCHAFER. When that statement is given by a representative of Pacific Truck Express in this record I want an opportunity to cross examine the declarant, and I am going to object to your statement on the hearsay rule. Now, I didn't ask you to make any statement, but I think this is the headquarters of the Pacific Motor Trucking and we could get some officer of that company to make that statement and have him subject himself to cross examination.

1033

Mr. FARRENS. As a matter of fact, I am not giving this statement in response to any demand made by you, Mr. Schafer, but in response to a demand made by Mr. Berol that I do precisely the thing that I now propose to do in this case.

Mr. SCHAFER. And this is not my case, so I have no position in it. I will subside, but I am not going to be bound in my case by your statement.

Mr. FARRENS. Nobody is asking that you should.

Chairman TERRIL. Proceed, Mr. Farrens.

Mr. FARRENS. This statement consists of five sentences.

"The statements made by Pacific Motor Trucking Company in the control or acquisition case, that we do not propose to offer a through service from Oregon points to San Francisco, will be adhered to. Pacific Truck Express will continue an operation which will fully protect its Oregon-California rights. Changes that may be required to fulfill those objectives while furnishing service at least equal to the service now maintained or improvement of same are now being studied for determination of the best method of operation. No definite date for changes to accomplish this end can now be set. When the changes have
1034 been determined upon they will be announced publicly."

I think that perhaps it will have considerable amount of time if I explain within brief limits this statement.

When Pacific Motor Trucking Company was asking the authority of the Interstate Commerce Commission to acquire by purchase the capital stock of PacificTruck Express it placed representative witnesses on the stand, who testified that it was not the plan of the Southern Pacific interests to cause Pacific Truck Express to furnish a through service between Portland and San Francisco. At the time that case was heard and that testimony was given it was the opinion of the Southern Pacific Company's interested officials and its affiliate's officials that there was an overplussage of truck service in the territory and that by withdrawing Pacific Truck Express Company's through service between Portland and San Francisco there would not be occasioned any deficiency in through interstate truck service between those points.

As of June 1, 1935, at a time when this interstate traffic by truck had heretofore been uncontrolled, there was in this field such an amount of service as had sprung up in unnatural and unlimited competition. Subsequent to that time there had been applications for new extensions; in other words, new B. M. C. 8 applications.

It did not occur, naturally, to the interested officials who made the decision with respect to the representation that
1035 would be made to the Commission, that at a subsequent date the proposal to withdraw that through service would be cited as one of the grounds by two applicants for an increase in through service between Portland and San Francisco.

There is among the operating and traffic officials of Southern Pacific interests a strong desire in the case of a large number of them to continue permanently that through service. If it should be decided by the Commission that there is any insufficiency of such through service, I haven't any doubt but what that would influence the opinion of Southern Pacific Company's officials and its affiliate's officials as to the desirability of continuity of such through service. But I can assure this Board and the Examiner and, through you, the Commission, that no such decision or

versal of the present decision which would result in carrying out an intention of maintaining through service will be taken without previously giving the Interstate Commerce Commission frank, complete and entire notice on that subject.

You will note that the statement which I read to you says that "Pacific Truck Express will continue an operation which will fully protect the Oregon-California rights." You are entitled to assume from that statement that trucks will be operated daily over all of the route or routes of Pacific Truck Express. However,

1036 the characer of that operation and the plan intended to be carried out ultimately will be such that, while a shipper would be entitled if he wished to tender a shipment at Portland and to have it delivered at San Francisco——

Exam. KEPHART (interrupting). Truckload quantities?

Mr. FARRENS. Sir?

Exam. KEPHART. Truckload quantities?

Mr. FARRENS. In either truck or l. c. l. quantities would be able to obtain such transportation, but it would not go on one truck unit or motor transportation unit directly from San Francisco to Portland.

Chairman TERRIL. In other words, it would be an interchange at Medford?

Mr. FARRENS. I am not in a position to say what interchanges would be made because that has not been determined.

Chairman TERRIL. I was just attempting to be facetious.

Mr. SCHAFER. Are these points to be covered by competent, sworn testimony in the Consolidated Freightways case?

Mr. FARRENS. If you will permit me to make my statement I shall be glad to answer any questions afterwards.

The plan, as I understand it, which will be attempted to be carried out will be similar to that which was explained in the acquisition case with respect to the Oregon traffic.

Now, the operation was taken over on July 1 and it is the intention, as stated in the statement which I read, to furnish a

1037 service that would be equal at least to the service that is now maintained or to improve the same, if that is possible. And that subject is being studied to the best of the abilities of the officials concerned for determination of what would be the best method of operation, and that statement can be relied upon, that the change when made will be a change which will maintain the equal of the present service or improve it.

Naturally, the date for the accomplishment of such a change and the cessation of the present operation of one of the units directly through from Portland to San Francisco can not be given to you at the present time because the cessation of the through movements of trucking units will not be until the new method has

been determined upon and is ready to be put in force and effect. As the last sentence of the written statement announces, when that time comes the announcement will be made publicly so that all concerned, including the Commission, shippers and competitors, will be advised.

I have tried to give you a complete, full and frank statement of the situation which obtains as far as Pacific Truck Express Company's through operations are concerned. I don't know that I could add anything to what I have said, but if it isn't clear and I am able to clarify it I should be glad to answer any questions which the Board or the Examiner or counsel may ask me.

Mr. BEROL. I might say, if the Board and the Examiner
1038 please, that I think I generally understand the purport of Mr. Farrens' statement and I think it was very succinctly and fairly stated. There was just one point about which I have some doubt, and that is that Mr. Farrens indicated that the operations would be conducted in accordance with the testimony given at Portland at the finance hearing. I might state that I had intended to be present at the finance hearing in Portland in behalf of the principal in whose behalf I am appearing here today, and I did not appear at that hearing at that time and place upon the assurance of Southern Pacific and Pacific Motor Trucking Company counsel—and that was counsel other than Mr. Farrens—that the Southern Pacific Company and the Pacific Motor Trucking Company, if they acquired the Pacific Truck Express, would not run a through service.

Now Mr. Farrens indicates that that statement will be adhered to; that, however, it will be the intention, as I understand it, of the Pacific Truck Express to fully protect their operative rights as they presently exist without running a through service.

What I want to inquire of Mr. Farrens is to supply for my information the hiatus which is present in my mind by reason of not having been present at the finance hearing, namely, this: Is it the intention of the Pacific Truck Express in fully protecting
1039 their operative rights at the present time without operating a through service, for example, to have a segment of a service—and I am citing these points only for illustrative purposes and not attempting to tie these points down to anything—for example, by way of illustration, might there be a service, say, between Portland and Eugene, another one between Eugene and Roseburg, another one between Roseburg and Medford, another one between Medford and Redding, or another one between Redding and San Francisco?

These points, as I say, are cited only for illustrative purposes. Is that substantially the intention, Mr. Farrens?

Mr. FARRENS. I can't tell you with precision, but I can say that

you are hitting awfully close to the mark, as I understand it. Now, I did not attend, as you indicated, the acquisition case. But it is my understanding that the testimony in the acquisition case indicated that there would be daily trucks run over every foot of the Pacific Truck Express routes in Oregon but that service would be coordinated with rail service so that, for example, a truck might start out from Salem after a shipment had been moved from Portland to Salem—and this is only an illustration—and run to Eugene, making local deliveries on the way down; the purpose being, in the main, to relieve the trains of making the stops and increase the speed of trains and the speed and delivery of l. c. l. and other shipments.

Exam. KEPHART. That is what I understood you to say: That the train would make a less frequent stop, stopping
1040 largely at major points, and that the truck would make the deliveries to intermediate points along the route traversing the highways.

Mr. FARRENS. That might be a forward haul or it might involve a short backhaul, but we will protect the entire California route by operating trucks over every foot of those routes.

Exam. KEPHART. That means that you will solicit through traffic for rail haul almost wholly, practically wholly?

Mr. FARRENS. I think that is true. It is obvious that it is not the intention of the Company to maintain such a through schedule to Portland between Portland and San Francisco as would be fully competitive with the service proposed by the applicant in this case or any present existing through service or combination service, such as the applicant and Consolidated Freightways are now maintaining. And I think that was the bona fide intention at the time, as expressed by the witnesses at the acquisition hearing: and Southern Pacific Company and Pacific Truck Express are adhering to that intention in good faith.

Mr. BEROL. I think that probably there is just one more question that would completely clarify the issue for me and would put my mind completely at ease with respect to this thing. Again, I might say, I refer back to the assurances that were given me by counsel other than Mr. Farrens prior to the
1041 finance hearing. That is this: As I understand it, then there won't be any through service between points in Oregon even though there may be points in southern Oregon and San Francisco Bay area after the changes, as have been explained by counsel, will take place.

Chairman TERRIL. By the same vehicle, you mean?

Mr. BEROL. Yes.

Mr. FARRENS. I think that is correct. What I am trying to say to you here, Mr. Berol, with respect to the intentions of the Com-

pany are that we will adhere in good faith to the representations which were made by our witnesses at the acquisition case. Now, I was not at the acquisition case and you were not at the acquisition case.

Mr. BEROL. That is right.

Mr. FARRENS. We will have to let that testimony and the briefs and the other representations made by the Company speak for themselves.

Mr. BEROL. I state, then, there is only one thing left for the Company to do to completely supply my interest in the proceedings, and that is to put into effect the changes that Mr. Farrens speaks of.

Mr. FARRENS. Well, that will be done in due course, but in such a manner as not to deprive the public from receiving at our hands as good or better service than we are now giving in the matter of time and everything else, and it will take
1042 some time to work that out.

Chairman TERRIL. Any further questions of Mr. Farrens with respect to his statement? (No response.)

Thank you very much, Mr. Farrens.

We will now be in order, gentlemen.

JEROME SMITH was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Have you given your name to the reporter?

A. I have.

Q. And where do you reside?

A. San Francisco.

Q. What is your occupation?

A. District manager of Rockwood & Company.

Q. Will you spell the name of that company?

A. R-o-c-k-w-o-o-d.

Q. What is the nature of the business of that company?

A. Manufacturers of chocolate and cocoa.

Q. As district manager are you familiar with the transportation problems of your company?

A. I am.

Q. Do you have occasion, Mr. Smith, to ship your products from San Francisco to points north of Medford, Oregon?

A. I do.

Q. Will you specifically name the points to which you
1043 make such shipments?

A. Marshfield, Eugene, Roseburg, Portland; all the towns up there in that territory.

Q. Do you ship to Lakeview?

A. No; not that town.

Q. Respecting Marshfield, how frequently do you have occasion to make shipments to Marshfield?

A. Weekly, I would say.

Q. What would be the average weight per shipment?

A. Never less than 150 pounds; average perhaps 200, 250.

Q. Do you understand that the applicant here is proposing a daily service to Marshfield, making delivery in Marshfield the day after departure from San Francisco?

A. I do.

Q. And also making such deliveries without interchange of equipment?

A. That's right.

Q. Now, is that kind of service available to you at the present time?

A. No.

Q. Do you have any need for that kind of a service?

A. Yes. We would prefer to have a service where we didn't have any other carrier excepting the original party that made that pick-up from our own warehouse take it right through.

Q. With respect to the shipments to points north of
1044 Medford as far as and including Portland, how frequently do you ship into those points?

A. Daily, I would say.

Q. Daily?

A. To Portland.

Q. And what would you say would be the average weight of the shipments that you make to those points daily?

A. Well, it would be hard to say. It varies very much from day to day.

Q. Give us an idea as to the smallest.

A. A thousand pounds, or so, anyhow, every day.

Q. Your judgment is that it would average a thousand pounds or so per day?

A. That is so in our business in the busy season. In the warm weather it wouldn't be that much.

Q. Do you understand or have you been informed that under the proposal here the applicant proposes to likewise corporate through equipment to all those points making delivery to points as far north as Eugene the day following departure from San Francisco, making deliveries in Portland early the second morning?

A. That's right.

Q. How are you shipping at the present time to those points?

A. Oregon-Cal.

Q. Do you understand that at the present time there is an
1045 interchange at Medford?

A. That's right. That's correct.

Q. Do you also understand that at the present time all points north of Medford receive a second morning delivery?

A. That's right.

Q. Would the question of the elimination of the interchange and the faster time of delivery to those points be of any advantage to your company?

A. Yes; it would. In addition to the time element, why, merchandise of the nature that we ship, if it is on a truck any length of time there is an opportunity for it to be damaged there, and the less time it is on the truck the better it is for us. So we would be interested in having it go right through, if we could get a service of that nature.

Q. Is your merchandise likewise of a type that is susceptible to damage by excessive handling?

A. Yes; it is. The more handling, the more opportunity there is for it to be damaged.

Q. Can your merchandise in any way be termed a perishable commodity?

A. It isn't actually a perishable commodity. In the warm weather it is subject to damage from heat.

Q. Does it require refrigeration in the warm weather?

A. In some cases; yes.

1046 Q. Insofar as your experience with the Oregon-Nevada-California Fast Freight is concerned, subject to the infirmities of interchange and delays that we have mentioned; with the exception of those, have you found it to be a reliable company?

A. Very much so.

Q. And based upon your experience you would say they are a dependable transportation agency?

A. I would.

Q. If the proposed service here were made available to you, would you use the service?

A. Yes.

Q. Would you make use of the service to those points?

A. I would.

Q. Do you run into the competition of manufacturers at Portland and Seattle, in serving that area?

A. Well, I wouldn't say that, but the fact is that all the customers want their merchandise just as fast as possible when they send an order in.

Q. And that is your reason for preferring the type of service that is offered here?

A. That is correct.

Mr. Berol. I think that is all. You may take the witness.

Cross-examination by Mr. Ellis:

Q. Do you use the services of motor carriers exclusively in serving the territory north?

1047 A. That is correct. We don't use any rail, if that is what you have in mind.

Q. Have you used any carrier other than the applicant in this case in conjunction with the Consolidated Freightways in serving the territory north of Medford?

A. Not since we located in San Francisco. When we were in Los Angeles we used the Los Angeles-Seattle Motor Express.

Q. And you haven't had any experience with the Pierce Auto Freight Lines?

A. No, I have never used Pierce up there.

Q. Have you made any investigation to see what other motor carriers' service were available?

A. Yes. About two years ago, when we moved up here, why, we checked on the various lines that could give us service up through there, and after we looked them over we thought we would use Oregon-Nevada-California in the north.

Q. You found that there were other lines rendering service?

A. That's right.

Q. And during this two years you have patronized the Oregon-Nevada-California through its joint service with Consolidated exclusively?

A. That's correct.

Q. That service has been reasonably satisfactory to your needs?

A. It has.

1048 Q. And you haven't had any occasion to make any investigation during that two-year period to ascertain whether there was any better and more direct service available?

A. Well, I am always interested in getting faster delivery, if I can, but I didn't know of any up to the present time.

Q. Is it fair to assume that the service you received was sufficiently satisfactory that there was no impelling motive which prompted you to make a search to see whether there was better service to be had?

A. Well, I didn't believe I could secure any better, so I didn't make any investigation.

Q. You ship to Medford, do you, at the present time?

A. Yes, sir.

Q. And you know that that service is entirely within the control of Oregon-Nevada-California Fast Freight?

A. As far as Medford. That's where the change-over goes into effect, I understand.

Q. And you have been using that service for this entire past two years?

A. That's right.

Q. Do you know what time of day your shipments are delivered to Medford customers?

A. Well, I couldn't say exactly. I know when they pick them up, and I haven't had any complaints on the deliveries up there. It has always been satisfactory up there, as far as I
1049 know. You mean the actual time of the day that the deliveries are made up there?

Q. Yes.

A. No, I couldn't say.

Q. Do you know the actual time of day that your deliveries are made at Portland?

A. No.

Q. Have you been given to understand that your Portland deliveries will be made quicker under the new proposal than at the present time?

A. That's right.

Q. Are you not aware of the fact that you can get second morning delivery at Portland now in your San Francisco shipments?

A. We can get second morning delivery?

Q. Yes.

A. On our present arrangements, shipping Oregon-Cal.?

Q. Yes.

A. No.

Q. You didn't know that?

A. No, I didn't.

Q. Do you ship by truck to Seattle at the present time?

A. That's right.

Q. And I assume you use——

A. (Interrupting.) The same service.

Q. The same service?

A. Uh-huh. (Affirmative.)

1050 Mr. ELLIS. That is all I have.

By Mr. IVERS:

Q. Which of your commodities require refrigeration?

A. In the warmer weather it might be almost any of them. You would have to use reefer space for them.

Q. Does getting any of your products too cold damage them?

A. No. If they are kept at an even temperature it is all right. We specify them how they are to go.

Q. What temperature is required?

A. About 60, 65 would be all right.

Q. Suppose it got down to 30?

A. That wouldn't be good. That would be bad.

Q. That would damage them?

A. It wouldn't be damaged by going to 30. It is coming back to the normal temperature. That is when the damage would occur.

Q. So it must be maintained at 60?

A. That would be fair, from 60 to 70.

Q. Do you have any truckload shipments?

A. We have, but it is a rare occasion when we do, though.

Q. You said that your daily shipments were a thousand pounds. Is that the shipments going to various points?

A. That's right; not to a single destination; to various points there.

Q. And what would the single shipments average?

A. Well, as I said before, never less than 150. They might

1051 go as far as five or six or a thousand pounds.

Q. But, generally speaking, the individual shipments are less than a thousand pounds?

A. That's correct.

Q. When you used the Los Angeles-Seattle Motor Express out of Los Angeles was that a satisfactory service?

A. It was.

Q. Do you know that the Los Angeles-Seattle Motor Express are giving second day delivery in Portland, Oregon, from San Francisco?

A. That's correct.

Q. At the present time?

A. That is correct.

Q. Second morning?

A. Yes.

Q. And also second morning into Seattle?

A. Yes.

Q. But you have not been using it?

A. No. You see, they don't pick up from our warehouse. I don't know whether they do in other sections here, but they use the Haslett Warehouse Company to pick up where I am, and I would rather have the one carrier here handle everything right on. The arrangement we have now, Oregon-Cal. comes in and picks it up and takes it over to their own terminal and takes it right through with it.

1052 Q. They pick it up with a pick-up rig, don't they?

A. That's right.

Q. What difference does it make whether they pick it up with a pick-up rig with the name "O. N. C." on it or with the name "Haslett Warehouse Company" on it?

A. Well, I am not located in the Haslett Warehouse.

Q. And you don't like to ship it——

A. (Interrupting.) The people you warehouse it with don't care to have a competing concern come in and make their pick-ups.

Q. So that consideration was sufficient to keep you from using the Los Angeles-Seattle Motor Express service?

A. Not only that. I don't like to have more than one party handling merchandise. In case there is any complaint about damage, if the people that do the hauling make their own pick-up there is no question about who is at fault. They go right through with it. The other way, why, it is a question of—well, maybe it was broken on the pick-up truck or after it was loaded onto the rig that is going to take it through.

Q. Well, is it not your understanding that that pick-up truck is acting as the agent of the carrier?

A. That is correct.

Q. So that the claim would be made direct to the carrier anyway?

A. It would be, but I have never had any trouble with Oregon-Cal. and I don't want to get into any with anybody else.

1053 Q. Have you any reason to suppose that you would get into any such difficulty?

A. What is that?

Q. Have you any reason to suppose that you would get into any such difficulty?

A. Well, I have had trouble before on pick-ups with different outfits.

Q. If the pick-up arrangement is such that the person making the pick-up is the agent of the carrier, just the same as the carrier's own employee——

A. (Interrupting.) I see your point all right.

Q. Those considerations which you have stated have been sufficient to keep you from using a through truck service that would give a second morning delivery at Portland and Seattle.

A. That is correct.

Q. Is that correct?

A. That's right.

Mr. IVERS. That is all.

By Mr. JENNINGS:

Q. Mr. Smith, do you warehouse any place with the exception of San Francisco?

A. No; not on the Coast here.

Mr. JENNINGS. That is all.

Mr. BEROL. I think that is all, Mr. Smith. Thank you very much.

The WITNESS: O. K.! Fine.

1054 (Witness excused.)

Exam. KEPHART. Off the record.

(Remarks outside the record.)

Mr. BEROL. In the interest of expediting the hearing, we have another candy shipper, Mr. R. S. Semke, employed by the Herman Goelitz Company of 943 61st Street, Oakland. The witness, if called, would testify that he ships from Oakland candies to Marshfield, Eugene, Salem, McMinnville, Portland, Tacoma, Seattle and Spokane; that he is interested in an expedited service; that he ships in excess of 2,000 pounds a month; and that, if called, and asked the same questions on both direct and cross examination, would testify as did the former witness, Mr. Smith, as to his need of the proposed service. If all parties are willing to accept that stipulation I might be in a position to proceed with the next witness.

Chairman TERRIL. Can we have an agreement on the stipulation?

Mr. JENNINGS. Could I ask you one question?

Mr. BEROL. Yes.

Mr. JENNINGS. Did Mr. Smith testify with regard to candy?

Mr. BEROL. Chocolate. It is always understood that chocolate is a candy.

Mr. JENNINGS. There is a great difference between
1055 chocolate and candy. It was my understanding that he was talking about chocolate.

Mr. BEROL. Well, it is so long since I have been a small boy that I didn't realize the difference between chocolate and candy. If Mr. Jennings wishes to cross examine a witness on that, he is here available.

Mr. JENNINGS. I would like to ask him in regard to that, whether he would testify to candy as did Mr. Smith.

Mr. BEROL. He would be testifying in regard to candy, Hallowe'en mix, candy mixes, and so forth.

Is that right?

Mr. SEMKE. That is right.

Mr. JENNINGS. Is that what Mr. Smith testified in regard to?

Mr. BEROL. The specific items were different, Mr. Jennings.

Mr. JENNINGS. He was testifying in regard to chocolate?

Mr. BEROL. That is right.

Chairman TERRIL. May we have that stipulation?

Mr. ELLIS. We are willing to stipulate.

Mr. FARRENS. We are.

Mr. IVERS. We are.

Mr. JENNINGS. Yes.

Chairman TERRILL. The record may show that the stipulation was agreed upon and it is so shown in the record.

1056 Mr. BEROL. Call Mr. Brannon.

W. E. BRANNON was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Your full name is W. E. Brannon?

A. That is correct.

Q. Where do you reside, Mr. Brannon?

A. Where do I reside? In San Francisco.

Q. What is your occupation?

A. I am the branch manager of John Wyeth & Bro. and associated companies.

Q. That is spelled W-y-e-t-h?

A. That's correct.

Q. And how long have you been so occupied?

A. Sixteen years.

Q. What is the business of your firm?

A. Wholesale drugs.

Q. In your capacity as branch manager are you familiar with the transportation problems of your company?

A. Very much so. Everything goes over my desk.

Q. Are you familiar in a general way with the nature of the application that is pending here by the Oregon-Nevada-California Fast Freight?

A. I believe so.

Q. Do you have occasion to make shipments to Marsh-

1057 field, Coquille and Coos Bay area?

A. I do.

Q. Approximately how frequently do you ship to that area?

A. At least four times a month.

Q. And what would be the average size of those shipments?

A. They would vary from five pounds to a thousand pounds.

Q. With respect to the territory north of Medford, to and including Portland, you understand that the applicant proposes a through truck service and an on-call service beyond Portland to Vancouver, Washington, and Camas, Washington?

A. I do.

Q. You also understand that by connection at Portland the applicant proposes a second morning service into Seattle and Spokane, Washington?

A. That's right.

Q. How frequently do you have occasion to ship into the territory that I have just described north of Medford, Oregon?

A. Every day.

Q. And could you give me an estimate as to what would be the average weight of your daily shipments?

A. Do you mean to the entire territory?

Q. Yes.

A. Well, it would average around 50 ton a month, according to our tonnage report.

Q. About 50 ton a month?

1058 A. That's right.

Q. Have you in connection with your organization any peculiar problem or have you undergone any recent change in your organization that makes transportation of vital importance to you?

A. Very much so.

Q. What is that?

A. We had our warehouse located in Seattle. On account of the operation cost we deemed it advisable to close it and centralize everything in San Francisco, for the reason that San Francisco being centralized on the West Coast. Naturally, our accounts in the northwest, being used to daily service, whereas the service they are getting now, four and five days, we have had nothing but complaints. Consequently, we have lost a large amount of the business which we held previous to this on account of our competitors, who have local warehouses in Seattle, are able to give either daily service or the next morning service, which we are unable to give right at the present time.

Q. And is that a situation that can in some degree be ameliorated by proper transportation facilities?

A. Very much so.

Q. What transportation facilities are you using into the territory at the present time?

A. I am using the Oregon-California Fast Freight.

1059 Q. And you understand that they change at Medford with Consolidated Freightways?

A. Yes; I do.

Q. You understand also that by reason of the delays occasioned by that interchange, all points north of Medford to and including Portland receive second morning delivery?

A. That's what the transportation company claim.

Q. And beyond that is a third morning or worse?

A. Or worse.

Q. Or worse. Now, would a service such as the applicant proposes here, giving you next day deliveries to all points as far north as Eugene, second morning delivery to points such as Tacoma, Seattle and Spokane, assist you in the conduct of your business?

A. It would increase our business from twenty to fifty thousand dollars a year.

Q. In order to take care of the problem with which you are confronted, have you attempted to find better means of transportation that would give you the faster service that you require?

A. We have. We have tried them all.

Q. And over how long a period have you done that?

A. Ever since June of 1938 to the present time.

Q. And during the course of that time would you mind mentioning some of the carriers from whom you have attempted
1060 to obtain the kind of service that you require?

A. Well, originally we started to use these various package services—Northwest Forwarders and Western States Express—and we got away from that on account of so many complaints that we had. We moved it over to the rail. To try to remedy that we moved it over to fast truck lines and increased the cost to a certain extent, which we are now using at the present time.

Q. Do you find that in the use of the Oregon-Nevada-California Fast Freight Service you pay a higher rate than you would by rail?

A. That's right.

Q. But the requirements of your commodity are such that you are willing to pay the higher rate?

A. That's right.

Q. Have you also gone to truck lines other than the Oregon-Nevada-California Fast Freight in order to remedy your transportation problems?

A. To points in Spokane we have. We have used the Los Angeles-Seattle Motor Freight Lines, which we discontinued and have gone back to the Oregon-Cal.

Q. Is that because you found that the Oregon-Nevada-California service, with its deficiencies that you have described, still gives you a better service than you are able to get elsewhere?

A. Exactly.

1061 Q. I take it that it is your view that, if the type of service that is proposed by the applicant here is to be permitted to be instituted, it will enable you to increase your business from twenty to fifty thousand dollars a year?

A. That's right.

Q. What will it do insofar as assisting you in keeping your customers satisfied at the present time so that you may not lose more than you have already lost?

A. Well, if we can get second morning delivery in Seattle, such as a through service would give us, we would be very—by that I mean, that our sales in Seattle which we have already lost since closing our Seattle branch would be increased a considerable

amount. Dollars and cents I wouldn't say offhand. But as far as going further than that, in the outlying districts is where we have really lost our business.

Q. You understand, do you not, Mr. Brannon, that the through service proposed here extends only as far north as Vancouver, Washington?

A. That's right.

Q. That there may or may not be a through service by the applicant beyond Vancouver, but at any rate, whether it involves interchange or not at Portland, a second morning delivery will be available at Seattle?

A. That's right.

1062 Q. And that is the type of service that you are looking for?

A. That's right.

Q. Based upon your experience with the Oregon-Nevada-California Fast Freight, other than the deficiencies of which you have spoken, would you say that they are a reliable transportation agency?

A. Very much so.

Q. And if the service which they propose here were authorized, would you use it?

A. Yes.

Q. And it is your desire that it be made available?

A. That's right.

Q. And it would help you in the conduct of your business?

A. That's right.

Mr. BEROL. That is all. You may take the witness.

Chairman TERRIL. Mr. Brannon, of this approximately 50 ton a month, is that all moving by motor truck at the present time?

The WITNESS. At the present time the majority of it is, not all of it. Certain commodities we move by rail.

Chairman TERRIL. Do you use express?

The WITNESS. Express?

Chairman TERRIL. To a certain extent?

The WITNESS. No, we don't use express. Occasionally, maybe 10 or 15 pounds of that tonnage would move by express in

1063 case of narcotics.

Chairman TERRIL. And of your present shipments to the north, Oregon and Washington points, is all of it being handled by Oregon-Nevada-California Fast Freight and Consolidated combination at the present time?

The WITNESS. That's right.

Chairman TERRIL. You are not using any other carrier?

The WITNESS. That's right.

Chairman TERRIL. Do you designate the——

The WITNESS (interrupting). Oh, at the present time in between, we do use the rail service, as mentioned before.

Chairman TERRIL. Do you designate the carrier on all the shipments or is it controlled by the consignee?

The WITNESS. No; we designate all the carriers.

Chairman TERRIL. Cross-examine.

Cross-examination by Mr. ELLIS:

Q. A large part of your competitive difficulty, though, could be eliminated by the establishment of warehouses at Portland and Seattle and Spokane, could it not?

A. No; I wouldn't say that.

Q. As I understand your direct testimony, you say you have lost customers because the distribution facilities of your competitors at Seattle and Portland can have deliveries made in less time than you can make them out of your San Francisco

1064 warehouse?

A. That's correct.

Q. And to that extent you could eliminate a large part of your difficulty by establishing similar warehouse facilities in the northwest?

A. As I mentioned though, the reason we closed it: On account of the operation costs. We are in business to make money on that, and that is the reason we closed it.

Q. And you did not find it an economic proposition?

A. That's right.

Q. Are your Portland and Seattle competitors on an equality with you in the San Francisco Bay area so far as distribution of your product is concerned?

A. You mean, do they have warehouses here?

Q. No. Do they meet your prices and sell an equal amount of their product in the San Francisco Bay area with you?

A. No.

Q. Do you know why?

A. Well, quality is one of the big reasons. Price is the second.

Q. Transportation service, I assume, is another element?

A. Yes. In San Francisco?

Q. Yes.

A. No. I wouldn't say that, because we can all give the same service in San Francisco.

1065 Q. Well, do your Seattle and Portland competitors have distribution facilities in San Francisco?

A. You probably misinterpreted my statement. My competitors that are in Seattle—I am not speaking of the business which

we sell in San Francisco. I am speaking of only the business in Seattle.

Q. Yes. But your competitors——

A. (Interrupting.) In the northwest.

Q. Do they sell in your area?

A. No; they do not sell in this area down here.

Q. Is transportation a factor in keeping them out of this area?

A. That I couldn't say. They have bought warehouses—warehouses in both points.

Mr. SCHAFER. If the Board please, it occurs to me that I have just discovered that this witness was going to appear in support of the Consolidated application also, so perhaps I can save his time and the Board's time by asking a few more questions on direct, if that is agreeable with you.

The WITNESS. Perfectly so; yes.

Mr. SCHAFER. And then cross-examination could follow. Otherwise there are liable to be two crosses.

Chairman TERRIL. Do you mind the interruption at this time, Mr. Ellis?

Mr. ELLIS. Not at all.

1066 Mr. BEROL. You might ask if it is agreeable to me, Mr. Schafer.

Mr. SCHAFER. I just walked around there and asked you, didn't I?

Mr. BEROL. Yes.

Further direct examination by Mr. SCHAFER:

Q. Mr. Brannon, are you familiar with the application of Consolidated to extend its lines from Medford to Klamath Falls into San Francisco?

A. I am; yes.

Q. And their proposal to give a through second morning service to Seattle, central Washington, Spokane, and such points.

A. That is right.

Q. And are you familiar with the fact that such a service would result in a 24-hour faster service to points in north Idaho and western Montana?

A. That's right.

Q. Including points west of Butte?

A. That's right.

Q. Are you agreeable to having your testimony here in support of Oregon-Nevada-California Fast Freight apply also in support of the application of Consolidated Freightways?

A. Absolutely.

Q. Are your shipments emergency in nature?

A. Very much so.

1067 Q. They go to hospitals and drug stores and things like that?

A. We sell all means of outlets of drugs. That is, most of our business is connected with hospitals, which requires as fast a service as possible.

Q. Do you ever have occasion to ship into Canada through the Sweet Grass, Montana Gateway?

A. No. We don't do any exporting out of California.

Q. Do you sell in north Idaho and Montana?

A. Yes.

Q. Among the drug houses how does your house compare to the others? Is it one of the large ones?

A. Well, we are one of the largest drug people in the world. I think at the present time we are the largest drug manufacturer in the world.

Q. And I have forgotten whether you expressed any preference one way or the other for a through service as compared to a joint service. Did you so testify?

A. Our business, the way we have been shipping—to clarify it for you, at the present time we consolidate all of our freight in care of the Consolidated Freightways at various points, either at Portland, Seattle, Spokane or Tacoma. That goes by Oregon-Cal. and then to Medford. From Medford on, naturally, as you know, it is picked up by Consolidated, which at these points break it down and deliver it for us. In so far as any preference is

1068 concerned, we are still going to give the business to the company that gives us the best service out of San Francisco.

Q. I see. Do you know of any through service up U. S. Highway 101 into Marshfield at the present time?

A. Not that I know of.

Q. Are you familiar with any through rates published by a series of connecting lines up that highway?

A. To Marshfield.

Mr. SCHAFER. It occurred to me I had better not ask this witness that question. Counsel representing that carrier is not here at the present time and he probably will be during our case. So I would just move that that last question be stricken and I shall leave Marshfield alone, because the protestant is not represented here.

That will conclude my examination.

Chairman TERRIL. Now, Mr. Ellis, you may proceed.

Cross-examination (resumed) by Mr. ELLIS:

Q. As I understand it, it is your present policy to utilize the fastest, most direct service available by motor carrier between San Francisco Bay points and the northwest?

A. That's right.

Q. Do you know whether you are utilizing that fastest, most direct service?

A. Well, to our knowledge, we are; yes.

1069 Q. Are you aware of the fact that Pierce Auto Freight Lines is furnishing daily through service without interchange of equipment, without interchange of lading between Portland and San Francisco Bay points?

A. So they advise, but we found different.

Q. You found different?

A. That's right.

Q. And then you have used that service?

A. We did once; yes.

Q. How recently have you inquired to ascertain whether that direct service was available?

A. Oh, I would say about two weeks ago one of their solicitors called on me.

Q. You asked him if you could have daily service?

A. That's right.

Q. And what did he tell you?

A. Well, he's like all the rest of the solicitors. He tells you, yes, he has got it. But when you come to find out it is four or five days, when you get the complaints from the customers that they didn't get it.

Q. Did you use that service?

A. Once or twice. Exactly how many times I couldn't say.

Q. Have you used it within the past month?

A. No.

Q. Would you use it if you were assured——

1070 (A. (Interrupting.) No; I couldn't use the Pierce Auto Freight Lines because our general traffic department of New York advised us to discontinue using it because they weren't satisfied with their insurance coverage.

Q. Were you aware of the fact that the insurance coverage is governed by the Interstate Commerce Commission and is uniform?

A. I realize that. But, of course, I shall have to take orders from my general traffic department.

Q. Have they advised you to that effect as to any other transportation company?

A. No; oh, you mean locally? Yes; we have had three or four of them.

Q. As a matter of fact, hasn't your transportation department advised you that all freight moving to territory where Consolidated Freightways rendered services shall be routed over lines which will give the business to Consolidated Freightways?

The WITNESS. What is that again?

Chairman TERRIL. Read it, please.

(The pending question was read by the reporter as above recorded.)

A. No; absolutely not. I handle all the traffic routing myself.

By Mr. ELLIS:

Q. What did you mean by the statement that you were
1071 controlled by the transportation department. I believe you said you had to do what they told you to.

Mr. BEROL. Just a minute. I will object to that upon the ground that he made no such statement. He merely indicated that the traffic department had indicated that the insurance as carried by the Pierce Line was not satisfactory to the New York office of this witness.

By Mr. ELLIS:

Q. Is that as far as you want to go in that statement?

A. That's right.

Q. How recently did you receive that advice?

A. Well, I couldn't give you the exact time of it. I believe that was when we first used it.

Q. How long ago was that?

A. I say I couldn't give you the exact time on it; at least a year and a half ago anyway.

Q. Can you give us the name of the individual who gave you that advice?

A. No; I couldn't.

Q. Or information?

A. No; I can't.

Q. Someone in your New York office?

A. At that time; yes.

Q. But you have not recently undertaken to use or investigate the service actually given by Pierce Auto Freight between here and Portland, Oregon?

1072 A. That's right.

Q. If its service were found to be daily through service without interchange of equipment and superior to the two-line service which you receive from Oregon-Nevada-California Fast Freight and Consolidated——

Mr. BEROL (interrupting). That is objected to upon the ground that it assumes facts not in evidence and, as a matter of fact——

Chairman TERRIL (interrupting). Let him complete the question.

Mr. BEROL. Will you let me complete my objection?

Chairman TERRIL. I would rather have the question completed, please.

Mr. BEROL. I beg your pardon.

Mr. ELLIS. Will you read the question so far?

(The portion of the pending question was read by the reporter as above recorded.)

By Mr. ELLIS:

Q. Would you use the service of Pierce Auto Freight Lines today?

A. If they had the same set-up that the Consolidated Freightways has, I would.

Q. And by that what do you mean?

A. Consolidating shipments.

Q. Will you explain a little further how you use the consolidating services of Consolidated Freightways?

1073 A. How we use it?

Q. Yes.

A. You mean our system of handling it?

Q. Yes; and the particular advantage to you.

A. Well, you see, in the drug business it is probably a little different than any other, that is, to the point that shipments are small. We have shipments that weigh from five pounds, 10 pounds, that will run up to a thousand pounds or twenty thousand pounds. In order to cut expenses and keep the minimum rates we consolidate our freight. In other words, we send it out on a master bill of lading and manifests, which service the Pierce Auto Freight Lines advise me they have not got. Their representative or solicitor called on me at one time looking for the business. I told him, if he had the service and had the same set-up, why, we would see if we couldn't work something out, which he didn't have.

Q. Consolidated Freightways assembles those shipments for you at your warehouse in San Francisco in large lots?

A. No. We assemble those ourselves.

Q. You assemble them yourselves and ship them in large quantities on the one bill of lading?

A. That's right.

Q. Did Pierce Auto Freight Lines say that they could not do that?

A. That's right.

1074 Q. Do you understand from their statement just what part of the function they could not perform?

A. Well, from what they advised me at the time they didn't have that in their tariff.

Q. That is, they couldn't give you a better rate on large quantity shipments?

A. No. That they couldn't consolidate the shipments.

Mr. SCHAFER. Perhaps the witness means "pool distribution," at the destination.

The WITNESS. That's right.

By Mr. ELLIS:

Q. Oh, it is the destination? You said that you consolidated the shipments yourself at the shipping point?

A. That's right.

Q. Well, Pierce Auto Freight Lines at no time advised you that they would not accept shipments in ten or twenty thousand-pound lots and give you the corresponding freight rate on those shipments?

A. You mean one mark: one consignee?

Q. Yes.

A. Well, that would be pool distribution. That's what I had in mind: That they could not, did not have, which they couldn't handle. Consequently, they couldn't—we couldn't give them that business.

Q. Has the Oregon-Nevada-California Fast Freight advised you as to whether or not they were instituting this pool dis-
1075 tribution service at Portland?

A. No; they haven't. No.

Q. Then I assume the same situation would exist as to their operation as exists with respect to the Pierce Line? There would be no opportunity for them to get any business so long as Consolidated Freightways perform this pool distribution?

A. Well, that, of course, would be seen whether they have that pool distribution. Otherwise we would still have to go over to the Consolidated Freightways.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Mr. Brannon, there are some other operators who operate part of the way out of Portland. Probably there are some that just operate part of the way north from San Francisco. In addition to the application that you are now supporting, would you favor the granting of additional rights to such other reliable operators as are now operating part way?

Mr. BEROL. That is objected to as being incompetent, irrelevant and immaterial. There has been no evidence here that any other operators are planning any other applications.

Mr. FARRENS. The objection is rather absurd because the question is addressed to the policy being followed by the witness. It is not inherently necessary that any application be on file.

Mr. BEROL. Then I will add to my objection the ground
1076 that it is improper cross examination, because I questioned

this witness regarding no transportation policies. I questioned him regarding the needs of his own company.

Mr. SCHAFER. I will join in the objection on the third ground that it assumes something not in evidence. And I question counsel's statement that there are other operators operating part way. I would like to have him name a few of them.

Mr. FARRENS. Silver Wheel operates part way.

Mr. SCHAFER. Who meets him then?

Mr. FARRENS. I didn't say anything about meeting them north. There are plenty of them who operate part way.

Mr. SCHAFER. I didn't understand it that way.

Mr. BEROL. And Pacific Truck Express will soon operate part way.

Chairman TERRIL. Mr. Farrens, I am not sure that the Board understands what you are trying to get at here.

Mr. FARRENS. Here we have a witness who has taken the stand on behalf of this particular applicant and then under Mr. Schafer's solicitation he also testifies for Consolidated Freightways, and I was wondering what his theory was with respect to such a public necessity for transportation, as to whether he was universally in support of new applications for extensions on this route.

Exam. KEPHART. You mean whether a third line were
1077 applying?

Mr. FARRENS. Yes.

Chairman TERRIL. I think the witness may answer.

A. In other words, you mean that if any application was put forward in order to expedite service from San Francisco, would I be a witness for them?

By Mr. FARRENS:

Q. Yes. In addition to whom you are now testifying for, if a third applicant came along and, as in the case of these two, is operating part way, they propose to offer a service, would you be for them also?

Mr. SCHAFER. Just a minute. I am going to object to that also. In order to make a fair question of it it would have to assume that the third line would make a better service than existed. That is the only way you can make a fair question out of that.

Exam. KEPHART. If the service proposed to be given were the same as that to be offered by these applicants they would all be on a parity then.

Mr. FARRENS. That is the question.

Mr. SCHAFER. No; that is a different situation entirely. Here we have a witness testifying in behalf of two lines who propose to better the service by 24 hours. In order to make a fair question out of that we would have to assume that the two lines were in

existence giving the service and a third one came along
1078 proposing to give the same service. That would make a different question out of it.

Mr. IVERS. I wish to answer that, if I may. The proposal here that Mr. Schafer's client is making is that he better his own service and not that he perform a service better than anybody else.

Mr. BEROL. I would like to say that I think counsel are wasting a lot of time here, which is my time, and I have public witnesses waiting. I think the objections have been made and, as far as I am concerned, the objections may be ruled upon without further argument.

Mr. FARRENS. I believe they have been ruled upon.

Chairman TERRIL. I believe I ruled upon the question at one time. If the witness can answer I would be interested in having his answer on the record.

A. Well, I would say that if any transportation company would facilitate a faster delivery of service, I would be a witness for that.

Mr. FARRENS. Thank you. That is all.

By Mr. IVERS:

Q. Mr. Brannon, what is your position with this company?

A. Branch manager.

Q. Do you handle the traffic matters yourself?

A. That's right.

Q. Now, you are shipping via Los Angeles-Seattle Motor Express at the present time, are you not?

1079 A. That's right.

Q. And you shipped a number of shipments over that line last month and already this month you have made some shipments over that line?

A. That's right.

Q. Are you familiar with the fact that they are offering and performing second morning delivery to Portland and Seattle from San Francisco at the present time?

A. So they claim, but they are not. We found different.

Q. As a matter of fact, have you made any shipments to Seattle over their line?

A. No.

Q. The shipments which you have made over their line have been destined to Spokane?

A. That's right.

Q. Yes. So you haven't made any shipments to either Portland or Seattle to find out whether the service is actually second morning?

A. That's right; at the recommendation of their solicitor.

Q. Who was the solicitor that made that recommendation?

A. Oh, I can't think of his name.

Q. Mr. Johnson?

A. No; I don't believe that was his name. If I remember correctly, he was a representative of the Manlowe Transportation Company down in Los Angeles and Seattle.

1080 Q. The United Truck Lines? Mr. Liesner?

A. That's right.

Q. What did Mr. Liesner tell you?

A. He advised me at that time that they couldn't compete with the Consolidated up there now and he advised that it would be better to carry it on.

Q. Into where? Into Seattle?

A. Into Seattle. And another thing was that they didn't have the consolidation set-up into Seattle. So, therefore, we couldn't give them any business into Seattle.

Q. You mean the pool shipments?

A. That's right.

Q. Have you ever looked up their tariff?

A. No.

Q. Do you have a copy of the tariff of the Los Angeles-Seattle Motor Express?

A. No; I haven't.

Q. On this distribution of consolidated shipments, is any additional charge made to the through transportation rate from point to point for distribution service on the other end?

A. Oh, yes.

Q. And what is the additional charge that is made?

Mr. BEROL. To which I will object upon the ground that it is incompetent, irrelevant, and immaterial what that

1081 charge is.

Chairman TERRIL. The objection will be sustained.

Mr. IVERS. Well, may I make a statement concerning that, Mr. Terril? This witness has testified that the Los Angeles-Seattle Motor Express does not offer the distribution service which Consolidated offers. Now, I propose to hand this witness a copy of the tariff and ask him if the provision in the Los Angeles Tariff is the same. The reason I asked about the charges is that we have a charge. If there were no charge, then I would admit that it wasn't the same. If there is a charge and it is the same as ours, then I propose to hand him this and ask him if this whole provision is the same under which he is shipping.

Chairman TERRIL. The Joint Board stands in the position of reversing its ruling.

Mr. SCHAFER. The witness has said that Consolidated does make a charge. I would assume that it is the charge named in

its tariff. Otherwise it would be a criminal charge. And if he doesn't have that tariff with him, which is quite complicated, I don't see how he can compare it to the two.

Chairman TERRIL. I think any testimony that this witness may give on the point would be to the best of his knowledge and it would go to the weight of the testimony rather than to its admissibility. I think we will allow it.

Mr. BEROL. I think we are getting entirely into a rate
1082 situation here. What difference could it possibly make as to what the level of the charge of Consolidated is? It is apparently admitted by both Consolidated and the Los Angeles-Seattle Express that both carriers make a charge here. Now, so long as they both make a charge, and if Los Angeles-Seattle Express want the record to show how their charge compares with Consolidated, they can certainly do that by direct testimony. They can't get it out of this witness any other way. He doesn't have the tariffs here.

We are getting into——

Chairman TERRIL (interrupting). Do you know?

Mr. BEROL. If I may just have one more statement on that. If counsel wants to find out if the charge is the same, all he has to do is to ask this witness if he knows it is the same or not.

Chairman TERRIL. That is what I am going to ask him right now.

Do you know?

The WITNESS. I couldn't say.

Chairman TERRIL. Do you know the difference between the two charges of the two companies, if there is any difference?

The WITNESS. No; I couldn't say.

Mr. BEROL. That ends it.

Chairman TERRIL. All right.

1083 By Mr. IVERS:

Q. I hand you the Intercity Freight Carriers Conference Local Joint Proportional Freight Tariff No. 2, M. F.-I. C. C. No. 2, and call your attention to Item 125 and ask you if that is the same or similar provision under which you are shipping via Consolidated.

Mr. BEROL. To which I will object upon the ground this witness has already stated that he didn't know what the level of the charges was.

Mr. IVERS. I am not asking about the charges. I asked him about the provision.

Exam. KEPHART. About the rule; about the rule entirely.

Mr. BEROL. If you know, Mr. Witness.

A. I don't really get what you want to know. Do you want to know whether that is the same tariff that we use?

By Mr. IVERS:

Q. No. Is that a similar provision to the provision in the tariff or the practice of Consolidated under which you are shipping these pool shipments?

A. I couldn't say.

Mr. BEROL. Just a moment. All right. That will throw out the objection I was about to make.

Chairman TERRIL. Any further cross examination?

Mr. IVERS. That is all.

Mr. JENNINGS. I would like to ask just one question, if I may.

By Mr. JENNINGS:

1084 Q. Are you familiar with the fact that the three carriers you mentioned—Oregon-Nevada-California Fast Freight, Consolidated Freightways and the Pierce Auto Freight Lines—are all in the same tariff? Their rates are all published in one tariff?

A. Yes.

Q. Does that fact change the statement with regards to the distribution?

A. I didn't quite get what you said there. Do I understand the rates going up there?

Q. That their rates are all published in the same tariff?

A. Well, I couldn't say.

Exam. KEPHART. That is the question that Mr. Ivers asked: That that is the same rule.

Mr. JENNINGS. No. In the Pacific Inland Tariff Bureau tariffs.

Mr. BEROL. The question has been answered. The witness said he couldn't say. He doesn't know.

Chairman TERRIL. Is that all from this witness?

Mr. BEROL. No. I have some questions on redirect, if I may get to them.

Chairman TERRIL. Let us have them.

Redirect examination by Mr. BEROL:

Q. Mr. Brannon, you were asked on cross examination if you would support any application or any applicant who came
1085 here in connection with a proposed increase in territory. Let me ask you, Did you mean that you would support any application that would propose a better service than what was available to you at that time by that particular application?

Mr. IVERS. I object upon the ground it is leading. The witness is capable of explaining himself.

Chairman TERRIL. I think it is susceptible to the objection, but I think it would be easier to let the witness answer.

Exam. KEPHART. Hasn't the question already been answered in effect?

A. In other words, if a third carrier were to come before me and offer me later on faster service than what the Oregon-Cal-Consolidated Freightways intends to give would I testify for them? Is that the question?

Mr. BEROL. That is the question.

Mr. FARRENS. No; that is not the question.

Mr. BEROL. That was my question exactly.

Mr. FARRENS. I want to point out that it had no relation to mine and that you attempted to tie it into my question.

Chairman TERRIL. Let us have an answer to the question.

The WITNESS. Yes; I would.

By Mr. BEROL:

Q. Of course, in the interests of your company, you want the best transportation facilities that you can get?

A. Absolutely.

1086 Q. Let me ask you this: So far as the application of the Oregon-Nevada-California Fast Freight and Consolidated is concerned, if it were granted here so that those two services were available to you as described here, and then suppose a third applicant came along and wanted to give you the same kind of service, no better or no worse, would you then support the third applicant?

A. No.

Mr. BEROL. That is all.

Exam. KEPHART. Why do you stop at two, then, Mr. Brannon?

The WITNESS. Because of the fact that we would not want that much competition on the field to the point of this. What I mean by that is that I wouldn't waste my time in going before some other concern.

Exam. KEPHART. You think that two is enough then?

The WITNESS. No; I do not say that to a point. I understood what you meant was, would I give them business?

By Mr. BEROL:

Q. Either would you support them or would you give them business? Primarily, would you come here and support them as you are supporting these two applicants?

A. Certainly I would.

Exam. KEPHART. With one already in the field there would be three.

The WITNESS. That's right. I would want a fourth if they could speed up the service. Absolutely. I would like
1087 to have half a dozen, if necessary.

Mr. BEROL. I want to make sure that the record is clear as to this witness' viewpoint. I think I tried to shorten it by asking a short question, and I think he misunderstood it.

By Mr. BEROL:

Q. In answer to my question you stated that if these two applications were granted and the third one came into the field offering a better service than these two or what was available to you, you would support it. Is that right?

A. Absolutely.

Mr. FARRENS. I object upon the ground it is repetitive.

Mr. BEROL. I want to straighten this out. It is repetitious, but it is preliminary to what I want to clear up.

By Mr. BEROL:

Q. Now then, I further asked you, If these two services were in the field and a third applicant came in offering a service that was no better or no worse than these two that were available, I asked you if under those conditions you would take your time to come here and testify in support of a third application.

A. Yes; I would.

Mr. FARRENS. Just——

Chairman TERRIL (interrupting). The question is answered.

Mr. FARRENS. All right. Then I have some questions to ask.

1088 Mr. BEROL. Either the witness has misunderstood my question or I misunderstood his answer.

Exam. KEPHART. Why persist any longer, Mr. Berol? It isn't controlling in the record anyway. You can get the question answered almost any way you wish.

Mr. BEROL. In view of the Examiner's statement, I will gladly cease further questioning on it.

That is all I have Mr. Brannon.

Chairman TERRIL. Is that all from this witness?

Mr. BEROL. That is all, Mr. Brannon. Thank you very much.

(Witness excused.)

Mr. BEROL. I think at this time I agreed to defer to a witness that Mr. Roberts had.

Chairman TERRIL. Let us take a five minute recess.

(Whereupon a short recess was taken after which proceedings were resumed as follows:)

Chairman TERRIL. We will be in order.

Mr. ROBERTS. If the Board please, Mr. Berol and Mr. Schafer have kindly and generously permitted us to put on a witness out of order.

Mr. BEROL. I don't like to see Mr. Schafer have the benefit of this generosity.

Mr. ROBERTS. I will call Mr. Hubbard, please.

1089 CHESTER A. HUBBARD was sworn and testified as follows:

Direct examination by Mr. ROBERTS:

Q. What is your full name?

A. Chester A. Hubbard.

Q. Where do you reside, Mr. Hubbard?

A. Medford, Oregon.

Q. In what business are you engaged?

A. In the hardware business.

Q. What is the name of the corporation with which you are connected?

A. Hubbard Bros.

Q. In what capacity are you associated?

A. Secretary and treasurer, I believe is the official title.

Q. What other concern are you likewise interested in?

A. Hubbard-Wray Company.

Q. What office do you hold in that corporation?

A. Vice-president.

Mr. BEROL. What is the name of that last company?

The WITNESS. Hubbard-Wray; W-r-a-y.

By Mr. ROBERTS:

Q. What business does Hubbard Bros. engage in?

A. Hardware business.

Q. Located in the City of Medford?

A. Yes.

1090 Q. How long has it been engaged in that line of business, approximately?

A. Oh, about 54, 55 years.

Q. And Hubbard-Wray is engaged in what line of business?

A. Implement business.

Q. In the course of the operations of these two corporations do you require interstate shipments from the San Francisco Bay region?

A. Yes.

Q. Into Oregon?

A. Yes.

Q. You likewise require interstate shipments from Portland and northeastern points into southern Oregon?

A. We do; yes.

Q. And do you likewise use shipments from the San Francisco Bay region into intermediate points into Medford and Portland?

A. We do some; yes.

Q. What is the volume approximately of the shipments that you receive from the San Francisco Bay region in the course of a year?

A. Oh, we ship probably a little better than 700 tons.

Q. What facilities do you use for transportation of those shipments?

A. We use railroad and truck lines.

Q. Railroad and truck lines?

1091 A. Yes.

Q. What proportionate amount of the volume of business do you use through the medium of truck transportation?

A. Oh, I would say probably better than a hundred ton a year come by truck and a little better than 600 ton a year by rail.

Q. Do you require daily shipments?

A. We do; yes.

Q. Where do most of your shipments come from, approximately? I mean, around the Bay region?

A. Most of them from San Francisco and the Eastbay territory.

Q. What type of commodities?

A. Heavy hardware and tractor parts and everything along the hardware line.

Q. Paint?

A. Yes.

Q. What transportation facilities do you use in truck transportation?

A. Do you mean what lines?

Q. Yes; what lines or what carriers?

A. Oh, I would say that Oregon-Nevada-California Fast Freight carried the majority of our truckline shipments, all—that is, from this area.

Q. Yes; from this area. And you have found the services which they have rendered entirely satisfactory?

A. We find that the service has been better recently.

1092 Q. At the present time?

A. Yes.

Q. At the present time the service is entirely satisfactory for your needs and purposes?

A. It is so far as we are concerned.

Q. What facilities do you use from the north or from Medford and north for your interstate shipments?

A. From the north, why, we use mostly Consolidated and Pierce Auto and, of course, some stuff comes by Southern Pacific although

I believe most of our northeastern shipments—we try to give most of it to the trucklines.

Q. Do you find that the services which are rendered by Pierce and Consolidated meet your present requirements?

A. They do.

Q. And needs?

A. Yes.

Q. Are they satisfactory?

A. They are.

Q. Insofar as your present needs are concerned, Mr. Hubbard, is there any need for any additional carrier between San Francisco and Medford and intermediate points?

A. Not as far as our business is concerned.

Q. Do you occasionally have emergency shipments——

A. (Interrupting.) Do you mean——

Q. (Continuing.) Which require expeditious transportation?

1093 A. Oh, yes; practically every day.

Q. Practically every day?

A. Yes.

Q. And, as I understand, Oregon-Cal meets your present requirements?

A. They have; yes.

Q. Do you ship occasionally into northern California, too?

A. We do; yes.

Q. And what facilities do you use for that transportation?

A. Well, if it would be from the south we would use Oregon-Cal Fast Freight probably.

Q. And at the present time that is entirely satisfactory?

A. Yes.

Q. What is the approximate weight of the shipment that you use daily? What does it range from?

A. Oh, we probably ship around 12 tons a month by truck from the south; that is, roughly speaking. Our shipments vary all the way from various—we never have a shipment less than a hundred pounds, if we can help it. And considerable shipments are in ton lots.

Q. Insofar as your present requirements and needs are concerned, is there any necessity for any additional carrier between Medford north?

A. Not as far as our business is concerned.

Mr. ROBERTS. You may have the witness.

1094 Cross-examination by Mr. FARRENS:

Q. What time do you get your deliveries at Medford when they are handled from San Francisco by Oregon-Nevada-California Fast Freight?

A. A shipment leaving here tonight as a rule we receive late tomorrow afternoon.

Q. And what time do you get your shipments from Portland when they are handled by Consolidated Freightways?

A. From Portland to Medford?

Q. Yes.

A. A shipment leaving there this evening we would receive tomorrow morning.

Q. At what time in the morning about?

A. Oh, it will vary all the way from 8:00 o'clock until noon, depending on the type of merchandise, how hard it is to unload and so forth.

Mr. FARRENS. That is all.

Chairman TERRIL. Mr. Ivers?

Mr. IVERS. I have no questions.

Chairman TERRIL. Mr. Jennings?

Mr. JENNINGS. No.

By Mr. BEROL:

Q. Do I understand you correctly that you receive approximately a hundred ton a year from the San Francisco area or from all points?

A. Mainly from the Bay area. We do have some ship-
1095 ments from Los Angeles, but the bulk of our merchandise comes from—like San Francisco and Oakland and San Leandro and San Jose, but it is all in this area here.

Q. Of that hundred ton a year I presume that the majority of it goes to Medford rather than to points north of Medford?

A. The bulk of it does; yes.

Q. About what percentage would you say goes to Medford?

A. Oh, I would say 95 percent of our merchandise comes in to Medford.

Q. And of that hundred ton a year, only about 5 percent would go to points north of Medford?

A. Roughly speaking; yes. I am not using exact figures because I don't know.

Q. To what points north of Medford?

A. Oh, we ship into Canyonville, Roseburg and various other places where we may have some account up there who is buying from us, particularly some logging operation or something like that.

Q. Is that as a rule shipped direct to Roseburg or Canyonville, or is it shipped to Medford and then reshipped by you from Medford?

A. If we can ship it direct we do. If it happens to be coming combined with another shipment, why, it comes into us and we have to separate it anyway, and then we reship it ourselves.

Q. You state that you have used the Oregon-Nevada-
1096 California Fast Freight to some considerable extent?

A. Yes.

Q. Based upon your knowledge would you say that they are a reliable transportation agency?

A. I would.

Q. You understand, Mr. Hubbard, that the Oregon-Nevada-California Fast Freight seek here to extend its service beyond Medford into Portland?

A. Yes.

Q. You understand that, do you not?

A. I do; yes.

Q. You are not here objecting to that extension of its service, are you?

A. Well, not as far as our business is concerned. We have no bearing on it as far as we locally are concerned.

Q. Let me ask you, are you a stockholder of the Pierce Auto Freight Lines?

A. I am not now.

Q. Are either of your two companies a stockholder?

A. Not as far as the company is concerned. If any of the individuals are, I don't know frankly.

Q. You don't know that?

A. I don't know.

Q. You wouldn't say that none of the individuals connected with either of the two corporations are stockholders?

1097 A. I couldn't say they were or they weren't because I know nothing about anybody's private investments in the firm.

Mr. BEROL. I think that is all.

By Mr. SCHAFER:

Q. Are you C. A. Hubbard or A. C. Hubbard? What was it?

A. C. A.

Q. And is there an A. C. Hubbard?

A. A. C. is my father.

Q. A. C. is your father. And is that the A. C. Hubbard who is a common stockholder in Pierce Auto Freight?

A. I don't know. If my father has stock in Pierce Auto Freight it is just not to my knowledge. In other words, he has several investments and I don't know what his investments are frankly.

Q. His name is A. C.?

A. A. C.; yes.

Mr. SCHAFER. Thank you.

Mr. ROBERTS. Is that all, Mr. Schafer?

Mr. SCHAFER. That is all.

Chairman TERRIL. Mr. Hubbard, do any of your shipments moving by motor truck come in truckload lots?

The WITNESS. We have some occasionally; yes. The majority of it doesn't, but then we do have occasionally truck load lots.

Chairman TERRIL. That moves from the Bay area?

1098 A. Yes.

Redirect examination by Mr. ROBERTS:

Q. Insofar as the present management of Hubbard Bros. and Hubbard-Wray, Inc., are concerned, your father is not actively engaged in that at the present time?

A. No; he is practically out of business.

Q. In other words, he is retired? Isn't that the stiuation?

A. Yes.

Q. As to the extension of the Oregon-Nevada-California Fast Freight north, is the service which you now receive from Consolidated Freightways and Pierce satisfactory to you?

A. They are to us; yes.

Q. They meet your needs and requirements?

A. They do.

Q. Reasonably satisfactory?

A. Yes.

Q. Are you solicited by other carriers?

A. Well, I don't think there is a freight line operating that we are not solicited by.

Mr. ROBERTS. That is all.

Mr. BEROL. May I ask one further question, if the Board please?

Re-cross-examination by Mr. BEROL:

Q. Mr. Hubbard, respecting the traffic or the merchandise that you receive from Portland, I presume that generally comes out of stock or out of warehouse in Portland?

1099 A. Most of our Portland merchandise comes out of warehouses.

Mr. BEROL. That is all.

Mr. ROBERTS. That is all.

Chairman TERRIL. That is all, Mr. Hubbard, thank you.

Mr. ROBERTS You do get shipments from the east, carloadings through Portland, do you not?

The WITNESS. Yes; we do.

Mr. ROBERTS. That is all.

(Witness excused.)

Mr. BEROL. Call Mr. Hewett, please.

MONTAGUE L. HEWETT was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name, please?
A. Montague L. Hewett; H-e-w-e-t-t.
Q. Where do you reside, Mr. Hewett?
A. San Francisco; 147 Cervantes.
Q. What is your occupation?
A. Manager of The Rix Company.
Q. What is the character of the business of The Rix Company?
A. Heavy machinery; gas shovels; diesel shovels, and compressors.
Q. How long have you been occupied as manager of that company in San Francisco?
A. Approximately 20 years.
1100 Q. As such, are you familiar with the tran-portation problems of the Company?
A. Yes.
Q. And are those problems directly under your supervision?
A. Yes.
Q. Do you have occasion to ship from San Francisco to points in Oregon between Medford and Portland, Oregon?
A. Occasionally Eugene, Salem, Portland and Seattle.
Q. Do you have occasion to ship to Marshfield or Lakeview?
A. Once in a while; not very often, though.
Q. With respect to your shipments to Salem, Eugene, Portland, and Seattle, how are they moving at the present time?
A. Sometimes by the Oregon-Nevada-California Fast Freight, sometimes by Railway Express and sometimes by Southern Pacific freight.
Q. What determines when they will move by truck, or when they will move by rail or by Railway Express?
A. When they have been moving by truck they have been chiefly in the vicinity of Medford. When they have been moving by Railroad Express they have been urgently needed at Portland or Seattle, and when there is no rush they would go by Southern Pacific Freight. That's to any place north of, we will say, Medford or Salem; anywhere north.
Q. How frequently do you have occasion to move commodities into that territory?
1101 A. On an average we have ten shipments a month. They vary, sometimes down as low as five or six and sometimes up as high as 14, 15. That's both ways.
Q. Are they generally shipments for stock or for some immediate purpose?
A. Immediate purpose; breakdown jobs.

Q. Breakdown jobs of particularly what kind or character?

A. When a compressor is broken down or a shovel is broken down.

Q. Is the time between the time of leaving your plant and the time or arrival at destination of any importance?

A. Very vital.

Q. Do you understand that the applicant here is proposing a through service under which you will be able to receive deliveries at Salem and Eugene the following day?

A. Yes. I have understood it in a general way. We have always kicked about the time that is taken to get deliveries in the way points like Eugene. For instance, when we have been shipping to a contractor by the name of McNutt or to Chester Malcolm or one of those contractors, they would always kick at the delay in getting the material there.

Q. And your purpose in testifying here is in order to obtain a speedier and more expeditious service into those points?

A. That is the only reason I am here.

1102 Q. If the applicant is authorized to institute the service and proposals, will you use it?

A. Absolutely.

Q. And is it your view that it will help you in the conduct of your business?

A. It will save me a lot of headaches.

Q. Based upon your experience with the Oregon-Nevada-California Fast Freight, outside of these infirmities in the operation of delays to points beyond Medford, would you say that it is a reliable transportation agency?

A. Yes. They have been hauling for me—I forget the exact number of years. That's in other points as well. That's into Nevada.

Q. Points between Nevada and San Francisco?

A. Yes.

Q. As to the points between Nevada and San Francisco, they serve all the way between San Francisco and Elko, Nevada, do they not?

A. They have occasionally done work for me from Elko, frequently from Reno, Carson City, and Virginia City.

Q. As to their shipments to and from Nevada that they have handled for you, have you experienced the same delays that you have experienced on shipments to Oregon?

A. There have never been any delays, not what I would call any delays.

1103 Q. And is it upon that experience that you base your view that if they were permitted to run a through truck service there wouldn't be any delays?

A. I would imagine that that is correct.

Mr. BEROL. That is all. You may take the witness.

Chairman TERRIL. Mr. Hewett, of these ten or more shipments a month north, how many of those would you say move by truck? Just approximately?

The WITNESS. I would say four or five each way from Portland down and from San Francisco north.

Chairman TERRIL. And what would be the average tonnage in a month that is shipped by truck, if you are able to state.

The WITNESS. The tonnage is light. The average parcel or package would run from about anywhere from 40 to 50 pounds up possibly to 125.

Chairman TERRIL. 125 ——

The WITNESS (interrupting). They are merely parts, repairs. There is no big tonnage in it.

Chairman TERRIL. Cross-examine.

Cross-examination by Mr. ELLIS:

Q. Do I understand that at the present time you are not using truck service to any considerable extent on your shipments to points north of Medford?

A. Only occasionally.

Q. Instead of the truck service what are you using to
1104 Eugene and points in that vicinity?

A. Railroad express when it's light, and we have shipped by Oregon-Cal. Fast Freight, and other times by the Southern Pacific freight.

Q. Is Railway Express faster than the present truck service that you are getting via this applicant and Consolidated Freightways to Eugene?

A. They are about on a parity. It seems that it is from two to three days to make a delivery there.

Q. Have you sought the service of any other truck company on your shipments from San Francisco Bay points to Eugene or points north of Medford?

A. No; and to the best of my knowledge we have never been solicited either.

Q. But you have personally made no investigation to find out whether there was direct service available to you?

A. No. One reason that we haven't is that the Oregon-Cal. Fast Freight are just around the corner from us and we can get a telegraphed order in at, say, 4:30 or a quarter to five and it is quite convenient to just run it across there and get it out the same evening.

Q. And that convenience would override any convenience in faster service that might result from using Pierce Auto Freight Lines, who have direct service?

A. No, sir; positively not; not if they could get the ship-
1105 ment out that same evening. What we want to do is, when we get a telegram in there, is to get it out that same evening because it is needed urgently.

Q. Are you aware of the fact that Pierce Auto Freight Lines is affording through daily service between San Francisco Bay points and Portland without interchange of lading at Medford?

A. No; I was not.

Q. Have you attempted to use the service of Cascade Fast Freight?

A. No, sir.

Q. And, really, you have kept your shipments almost entirely with the applicant in this case because of the convenience, largely of the convenience of their terminal to your place of business?

A. That and also that we have never had a kick from a customer that has ordered any of these breakdown parts.

Q. How recently have you used the service of this applicant in shipments to Medford?

A. Medford?

Q. Yes.

A. I don't think we have missed a month. We have two customers just north of Medford, one in Gold Hill and Rogue River, and when they come off shift at 4:00 o'clock at this gold mine they frequently send an order in by telegram and we get it that
1106 same evening and they pick it up in Medford about 9:00 or 9:30 the next morning.

Q. Do you normally get 9:30 delivery on the following morning on your shipments?

A. At Medford?

Q. At Medford.

A. Yes; because the boys come down from Gold Hill and pick them up.

Q. Oh, pick them up at the terminal?

A. Yes; in Medford.

Q. That is the Oregon-Nevada-California Fast Freight at Medford?

A. Yes.

Q. What is the time of delivery where you depend upon the applicant to make delivery to your customer at Medford?

A. We haven't had many packages for Medford itself. There have been quite a few from Yreka and Medford and just points outside of Medford, and the customers have come in to get them.

Q. Then you don't know what service is afforded, what delivery service is actually afforded to the average receiver of freight patronizing this applicant in Medford at the present time?

A. Only from one firm, that, is from Gold Hill. And they tell us to ship that way because they run in in their machines and pick them up the next morning.

Q. Do you know how your present truck service to Eugene
1107 compares with your present first-class mail service from San Francisco Bay points to Eugene?

A. I think the mail service, we get the mail both ways the next day.

Q. Would you be sure about that?

A. Well, generally speaking, I have noted—I haven't made it a point to notice the dates. But I have had letters the following day after they have been dated.

Q. Do you know how your present truck service between here and Medford compares with your first-class mail service?

A. I would say it would be about the same.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Mr. Hewett, are you aware that Pacific Truck Express for a long time has been giving through daily service between San Francisco and Portland and intermediate points in Oregon?

A. No.

Q. You have not used their service at any time?

A. No. I think we—there was a line we used to use from Los Angeles up here.

Q. But they have never operated south?

A. Wait a minute. I think there was a line we used to use from Los Angeles that we knew carried through to the north, but we have never been solicited by them. That was many years ago.
1108 We used to occasionally order out of Los Angeles for shipment to the north. That's when we didn't have the repair in our stock.

Q. If Pacific Truck Express were to cease giving through service between San Francisco and Portland it would not be a matter of inconvenience to you?

A. No; because we have never used them.

Q. Aside from steam shovels, what other equipment would you ship?

A. We might occasionally ship small machines, possibly in the neighborhood of four or five or six hundred pounds.

Q. You don't ship a shipment of steam shovels or heavy road building equipment of any sort by truck, do you?

A. You couldn't do that. We have to ship them by rail.

Q. The only service that you rely upon the trucks for is a shipment of small parts?

A. Yes. Shovels as a rule are overwidth and over-tonnaged and they have to go by rail.

Q. And that is true of all the other equipment which you sell?

A. No. We could ship compressors by trucks and we have done that, but don't recall just what time. They have been shipped—for instance, we shipped some years ago two machines into Mapleton—Florence, rather, I think it is.

Q. Normally, though, you ship your big, new set-up pieces of machinery by rail?

A. Yes, sir.

1109 Mr. FARRENS. That is all.

By Mr. IVERS:

Q. Have you utilized the services of the Los Angeles-Seattle Motor Express?

A. No. I have heard of them once in a while.

Q. You are not familiar with what service they are rendering to Portland or Seattle?

A. No; and I have never been advised.

Mr. IVERS. That is all.

Mr. BEROL. At this point, some days ago I requested of Mr. Farrens that he make a statement as to the intentions of his company respecting the Pacific Truck Express in view of the order of the Commission. Mr. Farrens kindly gave us an answer to that request today. I think it might be in order at this time to likewise request that Mr. Ivers make a statement as to the intentions of his company regarding continued operations from San Francisco or to San Francisco also in view of a recent decision of the Interstate Commerce Commission.

Mr. IVERS. The witness will be placed on the stand to testify.

Mr. BEROL. That will satisfy me.

Chairman TERRIL. Anything further of this witness?

Mr. BEROL. No, that is all.

Chairman TERRIL. You are excused, Mr. Hewett.

(Witness excused.)

1110 Mr. BEROL. Call Mr. Wilsey, please.

J. H. WILSEY was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name for the record, Mr. Wilsey?

A. J. H. Wilsey.

Q. Where do you reside?

A. I am connected with the Wilsey Bennett Company at 331 Front Street, San Francisco.

Q. And you live in San Francisco?

A. No; I do not.

Q. What is your position with the company which you represent?

A. General manager.

Q. How long have you occupied that position?

A. Five years.

Q. And as a result of your position with the company are you familiar with its transportation problems?

A. Yes; I am.

Q. Does your company have occasion to ship either to or from points in Oregon?

A. We ship from points in Oregon to San Francisco.

Q. What is the character of the business that your company is engaged in?

A. Merchandising of butter.

1111 Q. And I presume it is butter that you ship from points in Oregon to San Francisco?

A. That's correct.

Q. Specifically from what points in Oregon do you ship?

A. From LaGrande, Pendleton, Baker, Portland, Salem, Albany, Eugene, North Bend, Marshfield, Medford, Coquille, Klamath Falls.

Q. Confining your answer to shipments from Portland and south of Portland to but not including Medford—by that I mean, Portland, Eugene, Salem, and points in that area, and Marshfield, Oregon—are you in a position to tell me as to what your annual or monthly shipments are approximately?

A. They run approximately from 150 to 250 thousand pounds a month.

Q. A month?

A. Yes.

Q. Is that a seasonable month or is that a movement that runs all year?

A. It's a semiseasonal proposition. The low point is approximately 150,000 pounds a month to a high of 250,000 per month.

Q. With respect to your shipments from Marshfield, what portion of the total comes out of Marshfield?

A. I would say 20 percent.

Q. 20 percent?

A. Yes.

1112 Q. Do you understand that this applicant is proposing a service from Marshfield under which you will receive deliveries from San Francisco the day of departure in Marshfield?

A. That's correct.

Q. And do you also understand that that would be a daily service involving the use of through refrigerated equipment?

A. Yes; I do.

Q. And have you been advised that the equipment will be mechanically refrigerated?

A. That's correct.

Q. Mr. Wilsey, is any service of that character available to you from Marshfield at the present time?

A. Not a daily refrigerated service.

Q. How frequently are you able to get service from Marshfield at the present time?

A. Once to twice a week at the most.

Q. And by what carrier?

A. Transcontinental Contract Carriers.

Q. Do you have any need for any service more frequent than once or twice a week?

A. Yes. We need as fast a service as we can possibly get.

Q. And do you need a daily service?

A. We need a daily service.

Q. If the applicant is authorized to institute the service from Marshfield, will it be of assistance to your company?

1113 A. Yes.

Q. And will you use it?

A. Yes; we will.

Q. Respecting the shipments that you make from points south of Portland to Medford, have you been advised that the schedules from Portland will be twice daily and will be available in San Francisco 25 or so hours later; if it leaves Portland in the morning, deliveries will be made to San Francisco the following morning; if it leaves Portland in the evening, deliveries will be made normally here on the second morning, but as to points Eugene and south, deliveries will be available in San Francisco the day following pick-up in Oregon.

A. That's correct.

Q. And you also understand that that, too, will be transported on mechanically refrigerated through equipment?

A. Yes.

Q. What means of transportation are you using from these Oregon points to San Francisco at the present time?

A. We are using mainly, irregardless of Marshfield, Coquille, and North Bend, a combination of Oregon-Cal. and Consolidated.

Q. And do you understand that as to points other than Portland that involves an interchange at Medford?

A. Yes; I do.

Q. What would you say with respect to the advisability of

1114 interchange of lading as respecting butter?

A. My objection to the interchange of lading on the butter amounts to this: That there is a delay there from eight to twelve hours in the transfer and there is also some damage done to the package in the transfer.

Q. And you feel that by the movement of the butter in through equipment you will eliminate the damage done to the package?

A. That is correct.

Q. That damage to the package, is it normally sufficiently heavy to warrant you filing a claim?

A. Not generally so; no.

Q. Does it generally involve a sufficient amount of damage to constitute a nuisance or inconvenience?

A. That is it exactly.

Q. Is that what you are anxious to eliminate?

A. Exactly.

Q. With respect to the delay in the time in transit, why is a delay of any inconvenience to you in the transportation of butter?

A. Because most of these people whom we purchase butter from in Oregon are to a great extent cooperatives. And individual business men who buy their fat on a daily market that fluctuates very sharply, and it is to their advantage to get that merchandise down here as quickly as possible; in other words,

1115 sell it as close to the purchasing time as they possibly can.

If they can sell it the next day it is to their advantage. If they can sell it on the same day that they buy it, that is to their better advantage.

Q. Are you in a position to determine what transportation agency will be used in the shipment of this butter?

A. No. I am interested in the service and not the company.

Q. Perhaps you misunderstood my question. With respect to the movement of this butter, if the service were authorized would you use it?

A. Yes; I would.

Q. And do you feel, as you did in the case of the movement from Marshfield, that it will help you in the conduct of your business?

A. Very much so.

Q. How long have you had any transportation experience with the Oregon-Nevada-California Fast Freight?

A. For five years that I have knowledge of.

Q. Insofar as your experience with them has been concerned, eliminating this question of delays in transit and the question of the damage to the packages occasioned by interchange at Medford, would you say that the Oregon-Nevada-California Fast Freight is a reliable, dependable, transportation agency?

A. Yes, very dependable.

Q. It is your desire that service be made available to you?

1116 A. Correct.

Mr. BEROL. That is all. You may take the witness.

Mr. SCHAFER. Just a minute. If the Board please, I believe this witness also planned to appear in support of the Consolidated application. Is that right?

The WITNESS. That is correct.

Mr. SCHAFER. I would like, if protestants will permit questioning along the lines of direct, to ask for an adoption of his testimony in our record.

Mr. ROBERTS. Go ahead.

Further direct examination by Mr. SCHAFER:

Q. You are familiar with the application of Consolidated Freightways to extend from Medford and Klamath Falls into San Francisco, Mr. Wilsey?

A. Yes; that's correct.

Q. And are you agreeable to having your testimony here in support of the Oregon-Cal. application also considered and applied to the application of Consolidated Freightways?

A. Yes; I am.

Q. Do you get butter from John Day, Oregon? Is that one of the points that you listed?

A. Yes; that is correct.

Q. And other points in eastern Oregon?

A. Yes, Baker and LaGrande.

1117 Q. With the inauguration of 24-hour faster service from these eastern Oregon points on a daily, dependable basis, would that have any effect upon the volume of your purchases from such points?

A. Yes; quite a good deal.

Mr. SCHAFER. I believe that is all.

Chairman TERRIL. Cross-examine.

Cross-examination by Mr. ELLIS:

Q. As to your services from points on U. S. 99 north of Medford, are you utilizing any truck service other than that of this applicant and Consolidated Freightways?

A. Rarely Pacific Truck Express.

Q. You have never used the service of Pierce Auto Freight Lines?

A. No, not to my knowledge.

Q. Have you made any investigation to ascertain what type of service is actually afforded by Pierce Auto Freight Lines at the present time?

A. No. We have never been solicited by them.

Q. And because you have never been solicited you are unfamiliar with what service they afford?

A. That's correct.

Q. Have you made any investigation to ascertain what service is afforded by Cascade Fast Freight?

A. No; I have not.

1118 Q. Or any other carriers operating between San Francisco and Portland?

A. No; I have not.

Q. I assume from your answers that you have found the service of this applicant in conjunction with Consolidated Freightways sufficiently satisfactory that you have not found it necessary to investigate the service of competing carriers?

The WITNESS. Would you read that again, please?

Chairman TERRIL. Read the question.

(Whereupon the pending question referred to was read by the reporter as above recorded.)

A. That's correct.

By Mr. ELLIS:

Q. You are aware, however, of the fact that you encountered delays from 8 to 12 hours in the transfer of lading at Medford?

A. That is correct.

Q. Do you know who was responsible for that delay?

A. No; I do not.

Q. Did you ever complain to the applicant in this case concerning that delay?

A. Yes. There were complaints on the delay.

Q. Did you ever complain to the applicant concerning the delay?

A. Yes; I have.

Q. And about when did you make that complaint?

A. I couldn't say specifically; in the near past.

1119 Q. In the near past?

A. Yes.

Q. And to whom did you complain?

A. I personally did not talk to anybody in Oregon-Cal., but people in our organization filed a complaint on my instructions.

Q. Who in your organization filed a complant, if you know?

A. Our shipping clerk.

Q. And what is his name?

A. Swetman.

Q. Do you know what answer, if any, was received from the applicant as to why they allowed your shipment to lay in Medford or to be delayed in Medford from eight to twelve hours after delivery by Consolidated Freightways?

Mr. BEROL. I object to that upon the ground that it assumes facts not in evidence. Counsel himself from the air picked the figures eight to twelve hours. There was no such testimony in the record.

Chairman TERRIL. The objection will be overruled.

Mr. ROBERTS. That was the witness' testimony.

Mr. ELLIS. Can you answer the question?

Chairman TERRIL. Give him the question, Mr. Reporter.

(Whereupon the pending question referred to was read by the reporter as above recorded.)

A. No. I was more interested in finding out when it would be in instead of why it wasn't in.

1120 By Mr. ELLIS:

Q. And your purposes will be served completely if that delay can be eliminated, and that's your purpose in appearing here, is it?

A. That's correct.

Q. With respect to your shipments from the Coos Bay area, Marshfield and Coquille and North Bend, as I understand it, you use the services of Transcontinental Contract Carriers?

A. Whenever available.

Q. Well, is it not a fact that they transport substantially all of your shipments from that area at the present time?

A. Not exactly; no. We are trying as best we can to keep our merchandise moving out of those points on a daily service, which the Oregon-Cal and Consolidated have there now.

Q. Can you say what percentage of your shipments from the Coos Bay area do move over the line of Transcontinental Contract Carriers?

A. I would say 20 percent.

A. Only 20 percent of your total shipments from the Coos Bay area to San Francisco Bay move via Transcontinental Contract Carriers?

A. Yes; that's correct.

Q. How long has that condition existed in relationship of shipments?

A. All through this spring.

Q. Who transports the balance of your shipments?

1121 A. Transcontinental Contract Carriers.

Q. The 20 per cent are handled by——

A. (Interrupting.) Oh, I understood. Oregon-Cal. and Consolidated.

Q. And 80 per cent by the Contract Carriers?

A. That's correct.

Q. What service are you getting from the Transcontinental Contract Carriers at the present time? That is, as to time of service?

A. An overnight service.

Q. And that is a service that is satisfactory from those points?

A. When we can get it, a very satisfactory service.

Q. And then how often can you get it?

A. Once weekly; to the most, twice weekly.

Q. But it has been good enough to move 80 per cent of your traffic from those points?

A. Twenty per cent of our traffic.

Q. Well, your testimony is certainly confusing or I am confused.

Chairman TERRIL. I think he must have misunderstood your question. That is the way I understood it also, Mr. Ellis. You might straighten it out.

By Mr. ELLIS:

Q. Who moves 20 per cent of your traffic?

1122 A. Transcontinental does.

Q. And the balance, the 80 per cent, moves via Consolidated Freightways and the applicant in this case?

A. Correct.

Q. If Transcontinental Contract Carriers furnished sufficient equipment to handle all of your shipments from the Coos Bay area, would that have any advantage over utilizing the common carrier facilities of this applicant, which might occasion the mixing of your butter shipments with other merchandise?

The WITNESS. Would you repeat that again, please?

Chairman TERRIL. Read him the question.

(Whereupon the pending question referred to was read by the reporter as above recorded.)

A. I think what you mean is, if Transcontinental had a daily service in effect now would I use that preferably to the service that we are now using on our 80 per cent coming over Oregon-Cal. Consolidated?

By Mr. ELLIS:

Q. That is correct.

A. Correct. We would use Transcontinental.

Q. Who pays the freight on the shipments from Coos Bay points?

A. It is paid, I would say, 75 per cent of the time by ourselves, 25 per cent of the time by the shippers.

Q. When you pay it do you charge it back to the shipper?

A. That is correct.

Q. And who has control of the routing of the shipments

1123 from the Coos Bay area?

A. Both parties, whichever one can suggest the better service.

Q. Well, is it not the fact that the shipper actually controls the routing for shipment?

A. Not exactly; no. If we tell one of the plants to ship it on a certain line because the service is better, he will ship that way on our instructions.

Q. You exert your influence on the shipper himself to obtain the routing?

A. That's correct.

Q. And he actually has the final say as to whether he accepts your advice or ships via some other line he prefers?

A. That's correct. They usually follow our instructions.

Mr. SCHAFFER. May I raise a point here? With respect to two previous witnesses I have waived any examination on the Marshfield route at 101, expressly stating that my reason for doing so was that Transcontinental Contract Carriers were not represented here and it would be unfair to them. And no one spoke up and said that he was representing Transcontinental Contract Carriers. Now, I am going to ask, Are you here representing Transcontinental Carriers?

Mr. ELLIS. Yes; I am.

Mr SCHAFER. And I have waived cross-examination of two witnesses expressly stating that they were not here represented. Were you then representing them?

1124 Mr. ELLIS. No; I was not.

Mr. SCHAFER. It has happened since then?

Mr. ELLIS. Yes.

Mr. SCHAFER. In all fairness to you, I wanted to bring that out.

Mr. ELLIS. I have been waiting an opportunity to place the additional appearance in the record. I have been approached during the course of the late afternoon to enter that appearance.

At this time I have completed my examination of this witness. I want the record to show the appearance of Mr. Roberts and myself for John Paulson and S. H. Peterson, a copartnership doing business as Transcontinental Contract Carriers, as protestants in this proceeding.

By Mr. FARRENS:

Q. Did I understand you on direct to say that there is no daily refrigerated service out of Coos Bay to San Francisco?

A. Not to my knowledge.

Q. Isn't the Consolidated Freightways, in conjunction with Oregon-Nevada-California Fast Freight, giving such daily service now?

A. No. I understand that the Consolidated pick-up from Coos Bay is not refrigerated.

Q. Do you know whether or not Pacific Truck Express are and for a long time has been furnishing refrigerated daily
1125 service out of Coos Bay to San Francisco?

A. No; I don't believe they are.

Q. You mentioned on rare occasions you shipped via Pacific Truck Express. What brought that about? Was it the routing by the shipper?

A. The routing by the shipper; yes.

Q. You have not voluntarily used Pacific Truck Express at any time?

A. That's correct.

Q. And you refrain from using Pacific Truck Express notwithstanding the fact that the service is a through, single line service which does not involve this eight to twelve hours delay in the transshipment at Medford; is that the fact?

A. That is something I don't know.

Q. Well, was it not a matter of sufficient importance to you to investigate to see whether there are other carriers in the field who were furnishing single line service not involving the eight to twelve hours delay in Medford?

A. Yes; it was. But, as I understood, Pacific Truck Express did only various small sections of our supplying.

Q. Would haul only a small part of it?

A. They would touch only very small sources of our supply.

Q. Well, they are operating, Mr. Wilsey, over precisely the route proposed to be operated by this applicant in this case. Did you know that?

1126 A. No; I didn't. But I supposed the Pacific Truck Express was a rather prominent trucking concern. We have never had any solicitation for any movement out of any of those points there, especially in the Marshfield section.

Q. The fact remains, does it not, that this question of delay in transshipment at Medford was not a matter of sufficient inconvenience to your company to cause it to make an investigation to find out whether there existed a single line through transportation via truck which did not involve such delay?

A. We had no idea that Pacific Truck ran through those points at all.

Q. And you did not consider it of sufficient importance to make an investigation?

A. No. I naturally supposed that if they did have a line running through those points they would have solicited us for the simple reason that we had a good volume of tonnage through there that Pacific Truck must have known about.

Q. When you did rarely ship by Pacific Truck Express from what points did those commodities move?

A. Principally from Roseburg, Oregon.

Q. Did you get any shipments from any other points?

A. I believe they brought in small shipments from Springfield, Oregon.

Q. When you found that there was a through service from points like Roseburg and Springfield, which are north of
1127 Medford, did it not strike you that there was an opportunity to use a service which did not involve an eight to twelve hour delay in transshipment at Medford?

A. No; it did not.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. What are the sizes of these shipments?

A. They run from a minimum of approximately a thousand pounds up to 24,000.

Q. And the majority of them closer to a thousand pounds?

A. The majority are closer to five thousand pounds.

Q. Around 5,000 pounds?

A. Yes.

Q. And how is the butter packed? In what kind of a package?

A. In wooden cases and fibre cartons.

Q. Is the bulk of it shipped in wooden cases or the bulk of it in fibre cartons?

A. Yes; the bulk is wooden cases.

Q. The damage that you referred to in rehandling, was that damage to these wooden cases or to the fibre cartons?

A. Principally to the wooden cases.

Q. The wooden cases?

A. That is correct.

Q. What kind of damage would result in the rehandling?

A. Dropping and breaking.

Q. Breaking box tops and bottoms?

1128 A. That is correct.

Q. Was that because they were dropped?

A. That is correct.

Q. And that would be what you would consider just negligent handling, would it not?

A. Not exactly. We can't transfer a box of that kind no matter how careful we are with it without causing some damage to it.

Q. On the split of this percentage that you referred to of 80 and 20 percent, was that out of the Coos Bay area?

A. That is correct.

Q. Have you at any time utilized the services of the Los Angeles-Seattle Motor Express?
A. No; we have not.
Q. Have you utilized the services of Mitchell Bros.?
A. Occasionally, yes.
Q. And was that a shipper's routing?
A. Shipper's routing.
Q. Have you used Cascade Fast Freight?
A. Not to my knowledge.
Q. Have you used Pacific Refrigerated Truck Lines?
A. Not to my knowledge.
Q. That is otherwise known as "Lubisich"?
A. No; I don't believe so.

Mr. IVERS. That is all.

1129 Re-direct-examination by Mr. SCHAFER:

Q. In response to a question by Mr. Ellis, I believe he asked you whether you had found existing Oregon-Cal. service sufficiently satisfactory so that you have not investigated other services. Did you mean by your answer that you are fully satisfied with the existing service?
A. In relation to what services we know of at the present time; yes.
Q. Is the existing service fully adequate for your needs?
A. No; it is not.
Q. You have a contract with the Transcontinental Contract Carriers?
A. That is correct.
Q. I won't ask you to quote the rate which you pay them, but I would like to ask you whether it is true that their rate under contract is somewhat lower than the Oregon-Cal. and Consolidated joint through rate via Medford.

Mr. ELLIS. That is objected to upon the ground that the rate question is not here in issue.

Mr. SCHAFER. I think it is quite relevant on this ground, if your Honor please: If it appears that he routes 80 percent of his freight around a longer route involving transfers in perference to a shorter route in direct through service, why, it would be quite significant.

Chairman TERRIL. The objection is overruled. The
1130 Board is interested in the question.

By Mr. SCHAFER:

Q. Can you state whether the contract rate is any lower than that charged by the common carriers?
A. Offhand I can't say, but it must compare very closely with it.
Q. You don't know whether it is higher or lower?

A. No; I don't offhand.

Mr. SCHAFER. That is all.

Chairman TERRIL. Anything further of this witness?

Mr. BEROL. That is all.

Mr. IVERS. I have one question.

Re-cross-examination by Mr. IVERS:

Q. When you just answered counsel that the existing service was not adequate, were you referring to this joint service, Oregon-Nevada-California Fast Freight and Consolidated?

A. That is correct.

Mr. IVERS. That is all.

By Mr. FARRENS:

Q. And you don't know whose fault it is that it is not adequate?

A. No; I don't.

Mr. FARRENS. That is all.

By Mr. JENNINGS:

Q. Mr. Wilsey, if it should be a fact that that there are a number of common carriers operating between Portland and San
1131 Francisco on Highway 99 who render a service approximately 24- to 26-hour basis, would that meet your need without any additional carriers in the field?

A. You mean a daily service covering all the points straight down the Coast?

Q. Yes; down 99.

A. You mean from Portland straight through?

Q. Yes.

A. Not touching on Coos Bay or Marshfield?

Q. Yes.

A. Is that what you mean?

Q. Insofar as that territory is concerned.

A. That would take any quantity that we have shipping down?

Q. Yes.

A. Yes, I would use it.

Mr. BEROL. I think if you will acquaint the witness with that kind of service, that service will receive immediate business.

(Witness excused.)

J. P. UNDERHILL was sworn and testified as follows:

DIRECT EXAMINATION

The WITNESS. The name is Underhill; initials J. P.

By Mr. BEROL:

Q. Mr. Underhill, you reside in Stockton?

A. I do.

Q. What is your occupation?

1132 A. I handle the traffic for R. G. Le Tourneau, Inc.

Q. How long have you been so occupied?

A. Five and a half years.

Q. What is the business of Le Tourneau, Inc.?

A. They handle heavy machinery, scrapers, angle dozers, and so forth, that they use on the road; construction jobs.

Q. Is there any relationship between the Le Tourneau Company and the Caterpillar Tractor Company?

A. Our equipment is handled through the Caterpillar organization.

Q. What do you mean by that?

A. Well, it is sold through them.

Q. Are you familiar, Mr. Underhill, with the character of the application pending here?

A. I am.

Q. Do you have occasion to make shipments to points north of Medford, Oregon?

A. I do.

Q. Particularly to what points?

A. Well, we go—our—all through Oregon. We go to Salem, Marshfield, Eugene, Lakeview, Klamath Falls, Seattle, Portland, Spokane, and Vancouver.

Q. Do you understand that under the proposal of the applicant he offers a service from Sacramento to Lakeview arriving in Lakeview the day after the day of departure at Sacramento?

1133 A. I do.

Q. How frequently do you have occasion to make shipments to Lakeview?

A. Four times a week on an average.

Q. And do those shipments consist generally of the commodities which your company handles?

A. Either equipment or parts.

Q. Are you familiar with the transportation facilities that are available to you at the present time?

A. I am.

Q. Let me ask you: You understand, do you not, that the applicant here does not propose to serve Stockton?

A. That is correct.

Q. What will be your means of transporting commodities from Stockton to Sacramento where they may be made available to the applicant?

A. Diamond Truck Lines.

Q. Is that the Diamond Truck Lines or the Diamond Freight Lines, Inc.

A. The Diamond Freight Lines, Inc.

Q. Do you know whether or not the Diamond Freight Lines at the present time has joint rates with this applicant?

A. They have.

Q. And do you know as to whether or not the Diamond Freight Lines operates a schedule from Stockton to Sacramento
1134 designed to connect with this applicant's time of departure from Sacramento?

A. They do.

Q. And do you know as to whether or not insofar as shipments to Medford are concerned whether the Diamond Freight Lines at the present time does connect with this applicant in the evening in time to make it possible for your shipments to move the same night on the applicant's trucks?

A. They do. They pick up at our plant around 5:00 o'clock, and I believe arrive in Sacramento between six and seven.

Q. And have you been assured that in the event this application is granted for your other transportation needs beyond that, that through connections will likewise be made between the Diamond Freight Lines and this applicant?

A. I have been so assured.

Q. Respecting the present transportation facilities available to you insofar as Lakeview is concerned, are you in a position to tell me what facilities are available?

The WITNESS. Would you repeat that question?

(Whereupon the pending question referred to was read by the reporter as above recorded.)

A. Why, we have been turning it over to Oregon-Cal. and Consolidated.

By Mr. BEROL:

Q. And is that the fastest available service that you know of between Sacramento at the present time?

1135 A. So far as I am aware.

Q. Can they or do they at the present time give you a following day delivery at Lakeview?

A. They do not.

Q. Is the question of the following day delivery at Lakeview of any importance to you?

A. It is very important.

Q. Will you state why, please?

A. For the simple reason that when a contractor purchases equipment from us at Stockton he pays a penalty. I might say there that we have two other plants, one at Peoria, Illinois, and one at Decatur, Georgia. When a man takes a delivery out of Stockton he pays the penalty of freight charges between our plant in Georgia and this Coast. So his idea in purchasing from us

rather than from Peoria is the time element. Our equipment runs in price from $6.50 up to $18,000.00. When a man has a piece of equipment tied up for parts, naturally he is very anxious to have the parts arrive in the shortest possible time.

Q. What weight will these shipments that you make to Lakeview run normally?

A. I would say they would run from two to five tons.

Q. Do you have occasion to make shipments to Marshfield, Coquille, and the Coos Bay area generally?

1136 A. Frequently.

Q. How frequent are such shipments?

A. Twice a week.

Q. Would the weight of those shipments be comparable to the weight of the shipments to Lakeview?

A. They would be so comparable; yes.

Q. With respect to the applicant's proposal of service to Marshfield and Coquille constituting delivery to those points the day following the departure from Sacramento, likewise Stockton under the proposal, is that kind of a service available to you at the present time?

A. Not that I know of.

Q. And do you need that type of service?

A. I do.

Q. And do you need it for the same reasons that you testified for your need for the service to Lakeview?

A. I do.

Q. Respecting the service to points north of Medford, have you been advised that as far as points to and including Eugene are concerned the service will be a next day service?

A. No; I have not.

Q. And, further advising you, is it your understanding that insofar as Portland, points north of Portland to Seattle and Spokane are concerned, it will be a second morning delivery by connections at Portland?

1137 A. I have been so advised.

Q. Will you give me an idea as to the volume of the shipments which you make to the points that I have just specified north of Medford?

A. I will say practically a hundred tons a month.

Q. How frequently do those shipments move?

A. Every day.

Q. What would you say with respect to the emergency character of such shipments in comparison with what you described as to the shipments going to Lakeview?

A. I would say that 75 percent of them were in a hurry for them. They were in a hurry for them.

Q. Would the same conditions with respect to purchasing out of your Stockton or eastern plants apply to those purchases?

A. No; for the reason that the purchase out of our Peoria plant are for parts.

Q. And the purchases purchased out of your Stockton plant are emergency purchases?

A. Yes.

Q. What advantage would the proposal of the applicant have?

A. It would be of great deal of advantage for the reason that a contractor gives us an order for a part or a piece of equipment in which he has anywhere from $10,000.00 or more tied up. He also has a skinner, a man who runs a tractor, paying him his
1138 salary while this piece of equipment is tied up. He has also a time element in his contract. If he takes a contract for a certain job he has to complete that job within a certain time. So that every 24 hours to him is important.

Q. Now, Mr. Underhill, have you made any investigation or any effort to find transportation facilities that are more suitable to you than those you are using at the present time?

A. I have.

Q. Tell me, are you at the present time using the combination of the Oregon-Nevada-California Fast Freight and Consolidated into this territory?

A. I am.

Q. What other transportation facilities have you sought to use in order to meet your problems?

A. I have sought other transportation facilities, Pierce Auto Freight, Los Angeles-Seattle Express and one or two other agencies.

Q. Will you just describe briefly as to what has been your experience with those other agencies that you have attempted to use?

A. I have found that Pierce Auto Freight, the time is not satisfactory. Originally I made a deal with the Los Angeles-Seattle Express to call at our plant. We found that they called for a while and then we made arrangements for them to pick-up—for the Overland Transfer Company to pick-up. They called
1139 for a while and the service was O. K. But during the past, I would say since April, they have failed to call and I have had shipment after shipment lay on the platform of the Overland Transfer Company without pick-up.

Q. Has that resulted in any embarrassment to your company?

A. It has resulted in embarrassment to our company and to our agents and contractors in the north.

Q. Mr. Underhill, viewing all of the circumstances, would you say that existing transportation facilities in this territory are adequate or not adequate for your problems?

A. They are not adequate.

Q. If a service such as is proposed by the applicant here were instituted, would you then say that you would have adequate transportation facilities available to you?

A. I would say so.

Q. And is it your desire that such a service be instituted?

A. It is.

Q. And if it is instituted will you use it?

A. I will.

Q. Based upon your experience with the Oregon-Nevada-California Fast Freight insofar as its service exists at the present time, would you say that it is a reliable transportation agency?

A. I have found it to be so.

Q. Have you used it between Stockton and points in Nevada, for example, that are covered by its own line?

1140 A. I have.

Q. As to that service do you likewise make connections at Sacramento through the agency of the Diamond Freight Lines?

A. We do.

Q. What have you to say with respect to whether that service has been a satisfactory or an unsatisfactory one to you?

A. It has been a very satisfactory service.

Q. And based upon that experience, is it your view that if the applicant is permitted to serve the territory that it now seeks to offer, that it would likewise offer you a satisfactory service?

A. I believe it will.

Mr. BEROL. That is all. You may take the witness.

Mr. FARRENS. In this one instance I would like to cross-examine before you take up as far as I am concerned.

Cross-examination by Mr. FARRENS:

Q. I gather from your answer to Mr. Berol's question to the effect that if this application is granted the transportation which would thus be made available to you would be wholly adequate for your needs that you would not need a second such service?

A. I didn't say that.

Q. You did say what I just said you said.

A. There was no question asked of me of any other service. He was talking about his own transportation service alone.

1141 Q. And you told him that if that was granted that would constitute adequate transportation service to your company?

A. At the present time.

Q. And if it does constitute a lequate transportation service to your company you would not need an additional service, would you?

A. We could use some other service if it were available, yes, but it is not at the present time.

Mr. SCHAFER. I am going to object to being denied the right to directly examine this witness before cross. Now, this cross is purely in anticipation of direct, and either I will have to call this witness back Friday or this type of cross examination anticipation will have to be dropped.

Chairman TERRIL. I think if any useful purpose is to be served by consolidating a witness' testimony into two different records it should be handled in the ordinary manner and direct examination permitted first.

Mr. FARRENS. Now, as I understand your testimony up to date now——

Chairman TERRIL. Just a moment.

Mr. SCHAFER. We are going to have direct examination first and then cross. This is anticipation and it is going to wait.

Chairman TERRIL. The Board has ruled that the direct
1142 testimony of this winess will be permitted first, Mr. Farrens.

Mr. FARRENS. I want to take exception to that ruling and point out the prejudicial nature of the ruling. Now, as a matter of convenience and subject only to the rights, when and if stipulated, this direct examination to be carried on over into the other case has been permitted. I object to that in this case and I stand on my right to follow direct examination with cross examination, and I do not stipulate or consent to examination by Mr. Schafer in the case at this time.

Exam. KEPHART. Is this evidence to be brought in the other case, physically incorporated or brought into it by reference?

Mr. SCHAFER. This witness——

Exam. KEPHART (interrupting). Is the testimony to be taken into the other case by reference or physically incorporated?

Mr. SCHAFER. The transcript won't be ready to incorporate it this week, and it will have to be by reference or by a later physical introduction.

Exam. KEPHART. Which plan had you in mind?

Mr. SCHAFER. I was going to ask the right to introduce the testimony fully in the transcript sections and submit them as soon as we get the transcript.

Board Member BROWN. Will this witness be available
1143 Friday?

Mr. SCHAFER. We might be able to bring him back.

I will go ahead and wait if it will save time. I will waive the objection and try to make this work and save the time of the Board and everybody here.

Go ahead, Mr. Farrens.

By Mr. FARRENS:

Q. If I understand you, you need—actually need the service proposed by the applicant in this case.

A. We do.

Q. If an additional, similar service were offered to you you could use it but you wouldn't necessarily need it?

A. I wouldn't like to answer that at this time because I don't know. I could answer that possibly when that service was offered.

Q. Well you would not presently then in advance of offering the service be in a position to testify that you would need a second similar service?

A. I would not, not at the present time.

Mr. FARRENS. That is all. Thanks.

Mr. SCHAFER. Do you want me to take him before the rest of the cross or what?

Mr. IVERS. As far as I am concerned you may.

Mr. SCHAFER. Go ahead. I don't care.

Chairman TERRIL. Is there any other cross examination of this witness at this time?

1114 Mr. ROBERTS. I will defer to Mr. Schafer.

Further direct examination by Mr. SCHAFER:

Q. Mr. Underhill, it is a fact, is it not, that you had planned on appearing in behalf of Consolidated Freightways' application?

A. I had.

Q. And you are familiar with this application and proposal to extend their lines from Medford, Klamath Falls and Marshfield to San Francisco?

A. I am.

Q. And I believe you have already testified to a need for faster service to Spokane?

A. Spokane, Portland, Seattle, and Vancouver; practically all points north.

Q. Do you have branches in Yakima and Wenatchee?

A. We don't have branches. We have agents there.

Q. Agencies that sell your line?

A. Yes.

Q. Do you do any business in north Idaho or western Montana?

A. We do.

Q. And are you agreeable to having your testimony here with respect to your needs for a 24-hour faster service being applied also in the Consolidated case?

A. I am perfectly willing.

Q. Did you get any complaints from these agencies you
1145 mentioned with respect to the present service?

A. I have several letters from them, yes, complaining about the present service.

Q. Do you have any southbound business from any points in this territory?

A. I do, from Seattle.

Q. And what is the nature of that tonnage?

A. Reels of cable.

Q. And is that reasonably substantial tonnage? How much does that run into?

A. About 10 reels in a shipment. They weigh about 500 pounds apiece.

Q. And what service are you getting on that?

A. Why, at the present time we are shipping either rail or via Los Angeles-Seattle Express.

Q. Do you find the Los Angeles-Seattle Express service satisfactory?

A. It has been until—I would say, until April. Since that time it hasn't been as fast as advertised.

Q. And, as I understand your testimony, it is an expression of the present need of better service than you are getting, is that right?

A. It is, and it is a point of where we want to cut out transfer points wherever we can for the simple reason that some of our shipments will run, we will say, as high as 8,000
1146 pounds in one piece. Together with the 8,000 pounds, they are very peculiarly shaped. They are very hard to handle, and at a transfer point where there are no crane hoists of any kind, it takes considerable time to transfer them from one truck to the other.

Mr. SCHAFER. That is all.

Cross-examination (resumed) by Mr. ELLIS:

Q. All of your shipments originate at Stockton?

A. They all originate at Stockton; yes.

Q. And then at the present time on all of your shipments via this applicant to points north a transfer of lading is involved?

A. A transfer of lading is involved; yes.

Q. And you have had no difficulty with that first transfer between the Diamond Freight Lines and the applicant?

A. No. May I explain? Because the Diamond Line has the facilities in Stockton to handle that equipment. We have two large overhead cranes in our plant. They come in with an open truck.

Q. And they make the loading at your plant and they make the transfer——

A. (Interrupting.) At Sacramento.

Q. (Continuing.) At Sacramento?

A. That's right.

Q. Do you know whether this applicant is similarly equipped to transfer or handle your shipments?

1147 A. I believe they are.

Q. And they are the ones who transfer them at Medford?

A. Yes.

Q. And it is that delay at Medford that has occasioned your appearance here very largely, is it not?

A. I wouldn't say that one particular point, not belonging to the operating department of the truck lines. I couldn't state that. I have never been there to watch them transfer it from one truck to the other, but there is the delay somewhere along the line due to an extra transfer.

Q. And you don't know what conditions are at Medford that would occasion difficulty in a transfer which do not exist at Sacramento?

A. No. I would say that at any transfer point there might be some delay——

Q. (Interrupting.) And——

A. (Continuing.) Due to the size.

Q. And you are not attempting here to fix the responsibility for the delay which occurs at the present time?

A. No; I am not.

Q. So far as you know, that may be entirely due to the management of the applicant in this case?

A. I wouldn't say. I am not in a position to state.

Q. Do you maintain any stock of merchandise at Portland or Seattle or any other points north?

1148 A. Not our own organization. We stock an inventory through our agents, who are also the Caterpillar Tractor Company's agents.

Q. You maintain agencies at Portland and Seattle and Spokane, do you not?

A. Yes, we do; all through the northwest.

Q. And do you have any requirements which you place on those agencies to maintain a reasonable stock of merchandise to meet the needs of your trade?

A. That is more or less a sales matter. We have no particular requirements. We naturally ask them to stock as large a quantity of parts as they can. Some of them do and some of them do not. In the large majority of cases they do not stock a large inventory of parts, but depend on us.

Q. The equipment itself, as I understand it, is shipped direct to these dealers from the factory?

A. To the dealers or directly to the contractor on the job.

Q. And it is only the emergency shipments that move out of the Stockton plant?

A. They do—we do have some orders out of the Stockton plant for inventory purposes, but the majority of the shipments from the Stockton plant are emergency shipments.

Q. Do I understand that you have from two to five tons each week of these emergency shipments?

A. Why, yes. The fact of the matter is I believe the ques-
1149 tion was asked me and the two-to-five-ton answer was with respect to Lakeview, Marshfield and up in there. But altogether into the northwest I would say that we had up to 25 tons going into the northwest, all emergency shipments, a week.

Q. You said there was some difficulty with the schedule of Pierce Auto Freight Lines, that the time was not satifactory. When did you use the service of Pierce Auto Freight Lines last?

A. The last shipment, I believe, went out last month.

Q. About a month ago?

A. About a month ago.

Q. And you have not shipped since July 1st?

A. Approximately.

Q. Do you know whether or not they were affording daily service at the time you made your last shipment?

A. They advertised that they were.

Q. And to what point did your shipment move?

A. I believe this particular shipment was to Portland.

Q. Where was it delivered to Pierce Auto Freight Lines?

A. I don't know. It was picked up in Stockton by another service there, Valley Express Company in Stockton, who turned it over to an intervening carrier and then turned it over to the Pierce Auto Freight Lines.

Q. Do you know when the delivery was made at destination?

A. The delivery at Portland was made on this particular
1150 shipment to which I gave reference—was made, I believe, on the fourth morning.

Q. Did you have any occasion to know where the delay occurred?

A. No; I have not.

Q. As a matter of fact, you have no direct service from Stockton at the present time to points north?

A. We have. We have the Los Angeles-Seattle Express direct service from Stockton, if they call.

Q. But as a matter of preference you have used the combined service of Diamond Freight Lines and Oregon-Nevada-California Fast Freight and Consolidated Freightways?

A. I have, for the simple reason——

Q. (Interrupting.) To Oregon points?

A. Yes.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. Mr. Underhill, in the territory here involved do you ship by railroad at all?

A. Yes, we do; a great deal.

Mr. SCHAFER. May I have the last question of Mr. Ellis?

(The question referred to was read by the reporter as above recorded.)

Mr. SCHAFER. That is all, thank you.

The WITNESS. We do ship by rail a great deal.

By Mr. FARRENS:

Q. Your shipments are not confined solely to parts?

A. No; they are not. They are equipment also.

1151 Q. Your equipment in the largest degree consists of heavy pieces of machinery, does it not?

A. That is correct.

Q. And what percentage of the shipments that you have talked about moved by rail, roughly?

A. I would say about one-third.

Q. Have you been shipping by truck to points beyond Portland?

A. Yes.

Q. Is there any difference in the ratio of rail shipments as compared with truck shipments in the case of shipments to points beyond Portland as compared to shipments to points this side?

A. I didn't quite understand that.

Q. Well, I wondered if you didn't perhaps ship more by rail to points beyond Portland than you do to points this side of Portland.

A. No.

Q. Is the rail rate on your commodity generally lower than the truck rate?

A. I haven't the tariffs here, so I am not prepared to answer that question.

Q. Do you know whether there is some difference in some distances?

A. I don't know.

Q. What is it that determines the allocation of your
1152 traffic between rail and truck?

A. It is weight, it is width, and it is length.

Q. On what occasions do you determine to ship by rail?

A. When the time element is not involved and also when the equipment is too large to be handled by a closed truck. We have shipments that run as high as 37,000 pounds for one piece. They are 11 feet and two inches wide, and, of course, a truck couldn't handle those. Those we have to ship rail.

Q. Do you ship any of the parts by rail?

A. A few stock parts.

Q. I suppose in general your big machinery, which is already set up—new machinery—comes from the east, from the factory?

A. Not direct. It comes in parts and we assemble and paint it.

Q. Does that mean that all of your machinery new and set up which is delivered to the purchaser in this territory moves from your plant here?

A. That's correct, unless they order from our Peoria plant direct where the time element is not involved.

Q. Do you maintain an agency in Spokane?

A. We do.

Q. In Tacoma?

A. Not in Tacoma; no.

Q. Seattle?

A. Seattle.

1153 Q. Any place on the Washington coast?

A. Yakima, Wenatchee.

Q. That is in the interior?

A. Yes.

Q. And do you have a place over on Grays Harbor?

A. No; we have no place over there.

Q. Of the shipments that move to points beyond Portland are many of them drop shipments to a customer of your agent?

A. Yes. In fact, I would say that in that particular case nearly all of them are.

Q. And in that instance that would mean delivery to some point other than the big cities, usually?

A. Well, it would be on the route to these big cities, yes. The job is generally around the big cities.

Q. A lot of that material is used out in territory on new roads where there isn't yet an organized transportation service of any character?

A. Quite a few of them are.

Q. How do you get that material from the railhead or the transportation line out there?

A. In that case the contractor calls for it with his own truck.

Q. Have you had occasion to complain to this applicant concerning the delay at Medford?

A. Occasionally.

1154 Q. What excuse has he given you for the continuance of that delay?

A. He has told us that it was probably due to the fact that at the transfer point—I will say that the complaints have been in connection with large shipments that were hard to handle.

Q. And there was a lack of facilities for the transferring of the lading at Medford; is that it?

A. No; that is not the case. No matter whether you had facilities there or not, a crane or a hoist, it would still occupy some time in order to transfer them. They are so heavy and hard to handle.

Q. Can you give a wholly ignorant person like myself some kind of indication as to what time would be involved in such a transfer from one truck to another?

A. Depending entirely upon the piece of equipment and what it weighs, what its size is. I would say anywheres from a half an hour to an hour, possibly more than that; all depending on the equipment.

Q. Are you aware that the record in this case discloses a delay of from eight to twelve hours at that point?

A. I am.

Q. You wouldn't account for that delay simply by the transfer of lading, would you?

1155 A. No; I would account for that—occasionally when there is a transfer point it might be that they don't save enough space in the connecting truck and a shipment might lay over on the dock overnight.

Q. Well, were you aware that there is always delay——

Mr. SCHAFER (interrupting). I am going to object to further cross-examination on this point as not proper cross-examination. This witness has not qualified himself to testify as to the carrier's troubles at the junction point.

Mr. FARRENS. I will accept the Board's ruling on that, whatever it may be.

Chairman TERRILL. The objection is overruled.

Mr. FARRENS. Read the question, please.

(Whereupon the question referred to was read by the reporter as above recorded.)

Mr. FARRENS. A delay of from eight to twelve hours.

Chairman TERRIL. Go ahead.

A. I just didn't understand that question. What do you mean by "always a delay"?

By Mr. FARRENS:

Q. That there is that much difference between the time when the equipment arrives at Medford for delivery and departure with the connecting carrier.

A. I understood that there was a delay, but I didn't know that it was that long. But there is a delay; yes.

Mr. FARRENS. I think that is all.

1156 By Mr. IVERS:

Q. Mr. Underhill, did I understand your testimony that up until the lat'er part of April the service of Los Angeles-Seattle Motor Express was adequate?

A. It was.

Q. And were you getting the delivery in Portland and Seattle the second morning?

A. Not always.

Q. What time of day would it arrive when it wasn't second morning?

A. One thing about that service I would like to say is this: That our shipments are not ready until between four and five o'clock in the afternoon. Los Angeles Express calls at Stockton between eleven and two. Therefore, if we have any shipments which are ready between four and five they do not leave Stockton until the following afternoon.

Q. The truck that calls there is a through truck from Los Angeles?

A. I believe so; yes.

Q. And it is passing through Stockton on a schedule between Los Angeles and Seattle?

A. Yes; and that schedule—that schedule has—that schedule runs between eleven and two, and there have been occasions where they don't get into Stockton until about 3:00 o'clock in the afternoon. In the majority of cases it has been about 11:00 or 12:00.

1157 Q. And you have not been able to adjust your shipment time to their arrival time.

A. No; for the simple reason that the majority of our orders come in the afternoon between 1:00 and 5:00, nearly all of them coming by wire.

Q. Have you received any assurance from the applicant that you are going to be able to better adjust your shipping times?

A. I have.

Q. And what assurance have you had on that score?

A. Well, I have assurance that he is going to connect with Diamond Lines and take our equipment up and transfer it between 6:00 and 7:00 in the evening, which will allow us time

for our parts department and equipment department to get these orders out.

Q. And what time will they have to start loading at Stockton in order to have the transfer completed between 6:00 and 7:00 at Sacramento?

A. I would say between half past four and half past five.

Q. How long did you say it took to transfer one of these pieces of equipment from one truck to another?

A. That all depends on the equipment shipped. I would say that from a half hour to an hour and a half in some cases.

Q. Have you made any complaint to the Los Angeles-Seattle Motor Express since the later part of April?

1158 A. I have not made any complaint to them for the simple reason that when I contact them I have to contact Los Angeles through a telephone call or a wire. But I have contacted their pick-up service, which is the Overland Tranfer Company, in Stockton, and they in turn have promised to contact them.

Q. Have you written a letter?

A. Not yet. I just say that because I have been in the south and as soon as I get back I will write the letter.

Q. Well, were you in Los Angeles?

A. I was.

Q. Did you call at the office?

A. I didn't have time; no. I worked 16 hours down there and I had to have some time to sleep.

Q. And you didn't telephone either?

A. No; I didn't telephone either.

Q. Well now, how long is it since the Overland Transfer Company has been making this pick-up?

A. I think the arrangements were made in January, if I am not mistaken.

Q. But up until around the first of May the service was all right?

A. In April.

Q. April? What part of April?

A. Oh, about the 15th, I think. The original complaint came in on the 16th, if I am not mistaken.

1159 Q. And how many occasions have there been since that time that this pick-up hasn't been made?

A. I would say possibly ten or twelve occasions, and those happen to be important occasions.

Q. And do you know what occasioned the failure to make the pick-up?

A. I do not.

Q. When the truck was calling directly at your plant were you giving advice to the Los Angeles office ahead of time as to the space to save?

A. The Overland Transfer Company was. I did to start with, when they called at our plant. I wired Seattle and I gave them the dimensions of the equipment and what it weighed.

Q. Did you ever have any difficulty when they called at your plant?

A. Yes; we did.

Q. Was the space generally saved for you?

A. No. Generally by the time they arrived there they were pretty well loaded up, and, as I say, our equipment occupies a lot of space, and in the majority of cases they were unable to handle it. If it was parts, yes; but the equipment, no.

Q. Well, were they able to handle the majority of your shipments, whether they were parts or equipment?

A. I would say about half.

Q. Well, now during the month of April I have before me 23 shipments that were made during that month.

1160 A. That's right.

Q. An average of better than one a day?

A. That's right.

Q. Did that constitute the shipments that you had into this territory?

A. What is that?

Q. Did that constitute all the shipments that you made into this territory during that month?

A. Oh, no.

Q. How many more would you say you had during the month of April?

A. By Los Angeles-Seattle, do you mean?

Q. No. By all modes of transportation.

A. I would say several times that many.

Mr. IVERS. That is all.

By Mr. JENNINGS:

Q. Mr. Underhill, I believe you stated that you also used several other through carriers on the service to Portland and Seattle?

A. Well, I meant by that Pierce Auto Freight, Los Angeles-Seattle Express, Oregon-Cal., P. M. T. and rail. That's about all.

Q. Did you ever use Colletti?

A. Not north-bound. We get shipments in occasionally from them south-bound.

Q. Do you use Cascade?

1161 A. Yes; we have used Cascade.

Q. And have you used Pacific Refrigerated Motor Lines?

A. No; we don't have any occasion to use that.

Q. Pacific Coast Motor Lines?

A. No.

Q. Have you ever made any complaint about the service of any of those through carriers?

A. No. I haven't made any complaint because they are not adequately equipped to handle our equipment.

Q. What do you mean by "they are not adequately equipped"?

A. Well, what I mean is that they can't spare the time, in so far as I have been able to determine, to come in to our plant and shove equipment into the back end of their truck with our overhead cranes. They don't care for that kind of stuff. It is too heavy and it is to hard to handle.

Q. If through carriers operating through to Portland and points north did render you a service, would you still think that you would need these additional carriers?

A. You are talking about Oregon-Cal.?

Q. Yes.

A. Yes; I would.

Q. You would still need those in addition to the lines that you are now operating through Stockton?

A. Yes.

Mr. JENNINGS. No questions.

1162 Redirect examination by Mr. BEROL:

Q. Mr. Underhill, do you have to telegraph the Oregon-Nevada-California Fast Freight when you want to make a shipment over their line?

A. I do not.

Q. Do you as a shipper want to be in a position where you have to telegraph a carrier for space in order to get service?

A. No; I do not.

Mr. BEROL. That is all.

Re-cross-examination by Mr. JENNINGS:

Q. Do you understand that the equipment of the Oregon-Nevada-California Fast Freight operates through Sacramento with sufficient empty space to pick up your shipments however large they may be?

A. They have in the past.

Q. As I understand, some of these shipments weigh up as high as 37,000 pounds?

A. No; you did not. I said that those shipments went rail.

Q. How large do the shipments run?

A. I would say up to 8,000 pounds.

Q. They would always have room?

A. They are always telephoned to by the Overland Transfer Company when anything like that happens.

Redirect examination by Mr. SCHAFER:

Q. Who is telephoned to?

1163 A. The Oregon-Cal.

Q. I thought they used the Diamond?

A. Yes; that's right. That's an error. That is a mistake. Diamond Lines, I believe, has a through wire in there.

Q. When you reserve space in advance on the Los Angeles-Seattle Line, for instance, do you have to notify them before they leave Los Angeles?

A. We generally do. I always did when I wired them myself. I wired them approximately at 8:00 o'clock in the morning.

Q. You wired them at approximately 8:00 o'clock in the morning?

A. Yes. And then they caught the truck in between.

Q. I see.

A. At certain points in between. I don't know just where.

Re-cross-examination by Mr. IVERS:

Q. In the case of Los-Angeles-Seattle Motor Express, it is the agent that sends the wire, is it not?

A. It is at the present time, yes.

Chairman TERRIL. Is that all from this witness?

Mr. BEROL. That is all, Mr. Underhill. Thank you very much. (Witness excused.)

Mr. BEROL. Mrs. Lane, please.

IVY MABLE LANE was sworn and testified as follows:

1164 Direct examination by Mr. BEROL:

Q. Will you state your full name, Mrs. Lane?

A. Ivy Mable Lane.

Q. What is your occupation?

A. Western branch manager, Life Savers Corporation.

Q. The Life Savers Corporation is engaged in what business?

A. The manufacture of candy.

Q. And particularly the brand carrying the "Life Saver" label?

A. "The candy mint with the hole."

Q. The candy with a hole. Now, Mrs. Lane, in the conduct of your business do you have occasion to make shipments to points in Oregon and Washington?

A. I do.

Q. And particularly to points located on Highway 99 north of Medford, such as Salem, Roseburg, Portland, Tacoma and Seattle?

A. I do.

Q. And how about the Coos Bay area such as Marshfield?
A. Marshfield, yes.
Q. With respect to the Marshfield area, how frequently do you make shipments into that territory?
A. Not very often. I would say perhaps not more than once a month.
Q. That is not a substantial problem, I take it?
A. No.

Q. With respect to the points I mentioned north of Med-
1165 ford, Oregon, how frequently do you make shipments?

A. Oh, you mean in towns like Medford, Eugene, and that type of town?
Q. Yes.
A. Or are you taking in Portland now?
Q. Yes.
A. The towns between the borderline and Portland?
Q. The towns between Medford, not including Medford, and Portland, including Portland; in other words, all points north of Medford.
A. Then I would say I had 140 shipments in the month of June. I looked it up before I left.
Q. 140 in the month of June?
A. Yes.
Q. Would you say that that is a typical month throughout the year?
A. Yes.
Q. So you would have an average of five or six shipments a day?
A. Yes.
Q. What is the average weight per shipment?
A. It averages 157 pounds.
Q. Per shipment?
A. Yes.

Q. You at the present time are receiving second day
1166 delivery at points north of Medford?

A. How far do you mean?
Q. Up to and including Portland, Oregon.
A. No. Well, it would depend on when it would be leaving here.
Q. I mean by that, if it left here tonight, being Tuesday, it would arrive to the points north of Medford, including Portland, on Thursday? Is that your understanding of the present service?
A. Yes; it is.
Q. Under the proposal of the applicant, you understand that the applicant is proposing to offer service to all points north as far

and including Eugene the day following the time of departure here?

A. I do.

Q. Is that of any particular concern to your company?

A. It is.

Q. And is that the kind of a service that you are particularly anxious to have?

A. It is.

Q. Have you any particular problem at the present time with respect to distributing your products in the northwest?

A. I wouldn't call it exactly a "problem" other than that my home office is investigating the possibility of establishing a warehouse stock in Portland from which to serve
1167 the northwest.

Q. Do you maintain such a warehouse stock in Portland at the present time?

A. No; we do not.

Q. Is all of your distribution out of San Francisco at the present time?

A. It is.

Q. Will the character of service that you are able to get in the northwest have any bearing upon the question as to whether a warehouse stock is or is not installed in Portland?

A. I think it would.

Q. Is it your view that with an improvement in transportation facilities to that area that it will not be necessary to install a warehouse stock in Portland?

A. Right.

Q. And is that your purpose in testifying in support of this application?

A. It is.

Q. How are you making your shipments into that area at the present time?

A. Oregon-Nevada-California Fast Freight.

Q. And in conjunction with the Consolidated Freightways?

A. Right.

Q. How long a period of time have you had experience with the applicant?

1168 A. Oh, a period of years. I couldn't say, but I have been making all of those northwest shipments by that line since the middle of March of this year.

Q. Of this year?

A. Of this year.

Q. You did use other lines prior to that time?

A. Rail.

Q. Have you also used other truck lines in the past?

A. Many years ago.

Q. Based upon your experience with the Oregon-Nevada-California Fast Freight, outside of the question of these delays which you mentioned, would you say they are a reliable, dependable organization?

A. I would.

Q. And if they offer or are permitted to institute the service they propose, would you use them?

A. I would.

Mr. BEROL. I think that is all. You may take the witness.

Cross-examination by Mr. ELLIS:

Q. Prior to March of this year, as I understand it, you used rail service?

A. Yes.

Q. Exclusively or nearly so?

A. Nearly so. Let me change that. That would be
1169 points Portland and north.

Q. Do you still serve points Portland and north from your San Francisco agency?

A. We do.

Q. You maintain no stock either at Portland or Seattle?

A. No.

Q. But since March, as I understand it, you have used truck facilities of this applicant and Consolidated Freightways even as to your shipments to Seattle and other Washington points?

A. Right.

Q. And did you state what factors influenced you to change from rail to that truck service?

A. Requests from the jobbers and from my own salesmen in the area.

Q. And by reason of those requests you selected this particular method of transportation?

A. That's correct.

Q. Do you know what was responsible for those requests?

A. Speeding up of service.

Q. Was it your understanding that this was the fastest service that was available at the present time by truck?

A. It was.

Q. Did you make any investigation yourself to find out whether it was the fastest service available?

1170 A. No; I did not.

Q. Have you had occasion recently to make any shipments over the Pierce Auto Freight Lines?

A. No; I have not.

Q. Have you had occasion to make any complaint to this applicant concerning its service to points north of Medford?

A. By that you mean Oregon——

Q. (Interrupting.) Nevada-California Fast Freight?

A. I have not.

Q. Nor have you had occasion to make any investigation to see if there were any better or faster services available at the present time?

A. I did not. I acted on suggestions from my jobbers and my salesmen in each instance, or in every instance, I might say, they specified. And, after all, we want to satisfy our customers.

Q. And you would continue to do so, I assume, in the future?

A. I would.

Q. And in the event your customers directed you to utilize the through direct service of Pierce Auto Freight Lines you would abide by their decision?

A. I would.

Mr. ELLIS. That is all.

By Mr. FARRENS:

Q. As I understand you, your selection of a transporta-
1171 tion agency depended upon the wishes of your jobbers and customers only?

A. All other things being equal; yes.

Q. Well, is it a fact that you have acted on their suggestions and requests even when other things were not equal in this instance?

A. It may be, but my main idea is to satisfy my customer.

Q. And if the customers happen to select a slower service when there are faster services available, you would still follow your customers' suggestions?

A. I would.

Q. Were you aware that there was a delay of between eight and twelve hours between the time of arrival of the Oregon-Nevada-California Fast Freight equipment at Medford and departure of its connecting line going northward?

Mr. BEROL. I take it that the same objection that I made to this testimony previously applies, and I presume that the same ruling will follow?

Chairman TERRIL. That is correct.

Mr. FARRENS. What was the answer?

A. I am not sure whether I should answer or not.

Chairman TERRIL. Yes; you may answer.

Mr. BEROL. You may answer.

The WITNESS. Once again may I have the question?

Chairman TERRIL. Give her the question, Mr. Reporter.

(The pending question was read by the reporter as above recorded.)

1172 The WITNESS. I know there was a delay. The exact amount of it I didn't know.

By Mr. FARRENS:

Q. And the fact of that delay did not occasion you to suggest to your shippers that it would be desirable to take a single line carrier which did not have that delay?

A. No; it didn't.

Q. Well, in the final analysis, then, your situation is that your customers are suggesting the Oregon-Nevada-California Fast Freight and its connecting carrier at Medford; that that service is not as fast as you would like to have; and that you would like to see something done to enable that carrier to give you faster service?

A. Right.

Mr. FARRENS. That's all.

Mr. IVERS. No questions.

Chairman TERRIL. Mr. Jennings?

Mr. JENNINGS. No questions.

Redirect examination by Mr. BEROL:

Q. You pay the freight, do you not, Mrs. Lane?

A. We do.

Mr. BEROL. I think that is all. Thank you very much.

(Witness excused.)

1173 Chairman TERRIL. We stand adjourned until 9:00 o'clock in the morning.

(Whereupon at 5:45 o'clock p. m. the hearing was adjourned until 9:00 o'clock a. m., Wednesday, August 7, 1940.)

1174 Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Washington, over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA.
August 7, 1940, 9:00 a. m.

Before Joint Board No. 5: C. T. Terril, Chairman; Warren K. Brown, C. I. Kephart, Examiner.

Hearing resumed.

1175 Appearances: Same as heretofore noted.

PROCEEDINGS

Chairman TERRIL. We will be in order, gentlemen.

Mr. BEROL. I will call Mr. A. H. Gritsch.

A. H. GRITSCH was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Your full name is A. H. Gritsch?

A. That is correct.

Q. You reside in San Francisco?

A. Yes, sir.

Q. And you are an officer of the applicant, the Oregon-Nevada-California Fast Freight?

A. Yes; I am.

Q. What office in that organization do you hold?

A. Secretary.

Q. You are likewise a stockholder of the company?

A. Yes, sir.

Q. Now, Mr. Gritsch, did you have prepared under your direction and supervision a one-page exhibit entitled "Statement showing résumé of tonnage originated by applicant at San Francisco Bay points and available for interchange at Medford, Oregon"?

A. Yes.

1176 Mr. BEROL. I will ask that the document described be marked for identification as Exhibit number next in order.

Chairman TERRIL. It may be marked "Exhibit No. 7."

(Exhibit 7, Witness A. H. Gritsch, marked for indentification.)

Mr. BEROL. Now, may I ask that there be a correction in the title of the exhibit, so that in the fourth line after "Medford, Oregon," there will be added "and Klamath Falls, Oregon."

Chairman TERRIL. Off the record.

(Remarks outside the record.)

Chairman TERRIL. On the record.

Mr. BEROL. May the correction that I have asked for the exhibit be ordered?

Chairman TERRIL. Yes; it may.

By Mr. BEROL:

Q. Now, Mr. Gritsch, the exhibit on its face shows the tonnages for the week commencing February 6th, May 8th, August 14th, and November 27th, does it not?

A. Yes; that is correct.

Q. And are those all for the year 1939?

A. Yes, sir.

Q. Now, why did you, in the preparation of the exhibit, show the tonnages for only four weeks of the year instead of developing it for the entire year?

1177 A. Because of the volume of tonnage moved into those points. It would have been a tremendous task to show each day for an entire year. Therefore, we picked out one week in February, one week in May, one week in August, and one week in November, which we figured would be a fair average of the entire year's business.

Q. And is it your view that the periods indicated are representative of the year's business?

A. Yes, they are.

Q. Now, you show, for example, under the first week, the February week, the total. Does that 368,829 pounds indicate the total for the week?

A. That is correct.

Q. Then, where you show the week's average of 61,472 pounds, is that the daily average for that week?

A. Yes sir.

Q. And similarly you have shown the daily average for the three subsequent weeks, have you not?

A. Yes.

Board Member BROWN. Not for the three subsequent weeks.

Mr. BEROL. For the three subsequent weeks as shown on the exhibit.

Board Member BROWN. Yes.

By Mr. BEROL:

Q. Now, do you at the bottom of the exhibit show the total of all of the traffic studied for the four weeks in question?

1178 A. Yes; that is totaled at the bottom.

Q. And then do you arrive at the daily average for the entire periods studied of 73,056 pounds?

A. That is correct.

Q. Now, generally speaking, with respect to the movement of traffic originating at points in California destined to points north of Medford and Klamath Falls, are there periods of the year when the traffic is heavier than at other times?

A. Yes, the traffic is heavier from May until—I would like to make a correction there—the traffic is heavier, generally speaking, the last six months of the year.

Q. The last six months of the year?

A. Yes, sir.

Q. And have you found that to be generally true over a number of years so far as your experience is concerned?

A. As far as my experience is concerned, the past 11 years we have had the same situation.

Q. That has been continuously true?

A. That is right.

Q. Now, based upon the study that you made of the tonnage over the four weeks as reflected by Exhibit 7, did you likewise make a study to show the revenue that is available for that particular traffic to points beyond?

A. Yes.

Q. And is the result of that study contained in a one page exhibit entitled "Statement showing portion of revenue available under existing divisions for transportation only over routes in Oregon proposed to be served by applicant"?

1179

A. Yes, sir.

Mr. BEROL. I will ask that the document described be marked for identification as "Exhibit No. 8."

Chairman TERRELL. It may be so marked.

(Exhibit 8, Witness A. H. Gritsch, marked for identification.)

By Mr. BEROL:

Q. Now, Mr. Gritsch, will you describe generally the method that you used in compiling Exhibit No. 8?

A. The figures in this exhibit are taken for the same weeks that the revenue—or that the tonnage was taken in the prior exhibit, the same period of time.

Q. And does it, as a matter of fact, cover exactly the tonnage studied in Exhibit No. 7?

A. That is true. In order to reach these figures it was necessary that we break down the revenue on that portion of the freight which moved to points which we do not propose to serve by this application, in other words, points, the majority of the points in Washington, Idaho, Montana, and certain of the points in Oregon are beyond Portland or beyond points which we now propose to serve.

Therefore, we had to break the total revenue on each shipment down so that we could arrive at the amount of revenue
1180 we would receive if we had hauled that freight to Portland and to points we propose to serve in this application.

Q. Then, in other words, is it your statement that with respect to the respective tonnage that moved beyond Medford and Klamath Falls, Oregon, as shown in Exhibit No. 7, that if you were actually operating during those periods over the routes which you now propose to operate in Oregon, that there would have been available to your own line the revenue as indicated on Exhibit No. 8?

A. Yes; that is correct.

Q. And does that indicate, that based upon the four weeks studied for the year 1939, the weekly revenue available for that service in Oregon would have been in the sum of $2,225.60?

A. Yes, that is right.

Q. Now, in order that the record may be entirely clear, that total of $2,225.60 does not in any way include any portion of the revenue that accrues to other carriers beyond the points where you now propose to serve?

A. That is right.

Q. Now, let me ask you, both in the preparation of Exhibit No. 7 and in the preparation of Exhibit No. 8, you had broken down, did you not, the traffic to the various points where it actually moved?

A. Yes.

Q. Now, did you have any purpose in making that study
1181 in addition to ascertaining generally what the traffic and what the revenue to that territory was?

A. Yes; we were anxious to know just how the freight moves and to which points the majority of the freight moves.

Q. Now, subsequent to the preparation of Exhibits Nos. 7 and 8, and subsequent to the commencement of these hearings, did you, at my request, make a study of the traffic moving the first six months of 1940 to points beyond Medford and Klamath Falls?

A. Yes.

Q. And is the result of that study shown in a one-page exhibit entitled "Statement showing résumé of tonnage originated by applicant at San Francisco Bay points and available for interchange at Medford and Klamath Falls, Oregon, for the first six months of 1940"?

A. Yes, sir.

Mr. BEROL. To whom shall I give the original? The Reporter?

Exam. KEPHART. The original to the reporter always without exception.

Mr. BEROL. I am sorry; time didn't permit mimeographing these.

Exam. KEPHART. Off the record.

(Remarks outside the record.)

Chairman TERRIL. On the record.

1182 Mr. BEROL. Has the document last described been marked for identification?

Chairman TERRIL. It may be marked for identification as Applicant's No. 9.

(Exhibit 9, Witness A. H. Gritsch, marked for identification.)

By Mr. BEROL:

Q. Now, Mr. Gritsch, referring to both Exhibit No. 7 and Exhibit No. 9, the figures there relate to pounds, do they not?

A. That is true.

Exam. KEPHART. So the word "tonnage" at the top is not to be taken at full value?

Mr. BEROL. That is correct.

By Mr. BEROL:

Q. Now, Mr. Gritsch, will you describe briefly the method you used in compiling Exhibit No. 9?

A. Exhibit No. 9 covers the period from January 1st to June 30th, 1940, that is, actal figures in pounds, the amount of freight handled north of Medford and Klamath Falls by our lines from the San Francisco and Oakland Bay area.

Q. Now, all of the data that is contained in Exhibits Nos. 7, 8, and 9 refer to traffic originating at San Francisco Bay points only, do they not?

A. That is right.

Q. Is there included in any of those exhibits traffic originated by your company at Sacramento?

1183 A. No.

Q. Or at any points intermediate between San Francisco Bay points and the Oregon-California border or between Sacramento and the Oregon-California border?

A. No.

Q. Now, what does your study of the traffic originated in the first six months of 1940 indicate as compared to the traffic originated for the first six months of 1939?

Board Member BROWN. Before he answers that, Mr. Berol, I wonder if we could clear this point on Exhibits 7 and 8: Do those exhibits include any traffic originating at Sacramento or other points served by the applicant?

Mr. BEROL. They do not. They include only the traffic originated at San Francisco Bay points.

Board Member BROWN. I see.

Mr. FARRENS. Originated and interchanged, I assume you mean.

Mr. BEROL. Yes; that is correct. Insofar as it pertains to the

traffic, insofar as our line is concerned or the applicant's line is concerned, the traffic was originated at San Francisco Bay points.

Exam. KEPHART. When you say "available" you mean it actually was interchanged?

Mr. BEROL. At Medford and Klamath Falls; yes.

Exam. KEPHART. Yes; so the word "available" really
1184 shouldn't be there, but it should say "at" or "interchanged," in Exhibit No. 7.

Mr. BEROL. Well, I have no particular preference for the words used.

Exam. KEPHART. Well, the question is: Was it interchanged or was it not interchanged?

Mr. BEROL. It was interchanged.

Exam. KEPHART. The word "available" should be out.

Chairman TERRIL. What he had in mind was whether or not some of that might have been delivered at either Medford or Klamath Falls and did not go beyond.

Exam. KEPHART. Was it actually interchanged or not?

Mr. BEROL. It was definitely all interchanged, all went beyond.

By Mr. BEROL:

Q. That is correct, is it not, Mr. Gritsch?

A. Yes. There is no freight that was delivered by ourselves included in this report, that is, delivered by us in our own territory.

Q. In other words, such traffic as may have originated at San Francisco Bay points and delivered by you at either Medford or Klamath Falls as a point of destination was not included in these exhibits?

A. That is right.

Mr. BEROL. I think there is a question pending.

Chairman TERRIL. Read the question.

1185 (The question referred to was read by the reporter as follows:

"Q. Now, what does your study of the traffic originated in the first six months of 1940 indicate as compared to the traffic originated for the first six months of 1940?")

The WITNESS. Shall I answer now?

Mr. BEROL. Yes.

A. There is a very substantial increase.

By Mr. BEROL:

Q. And did you figure as to what that increase is?

A. It is approximately 25 percent.

Q. Now, with respect to the tonnage that has been originated at San Francisco Bay points transported by your line to Sacramento and—strike that—to Klamath Falls and Medford, Oregon, and there interchanged to points beyond, nas the general spread

of the traffic for the first six months of 1939 been substantially the same as that for the first six months of 1940?

A. Yes, it has.

Q. In other words——

Board Member BROWN (interrupting). What traffic are you talking about now?

Mr. BEROL. I am talking about the traffic originated at San Francisco Bay points destined to points beyond Medford
1186 and Klamath Falls, Oregon.

Board Member BROWN. Read the question to the witness, will you please?

(The question referred to was read by the reporter as above recorded.)

Board Member BROWN. What do you mean by the spread of traffic?

Mr. BEROL. I will reframe the question. Perhaps that isn't clear.

By Mr. BEROL:

Q. Has the distribution proportionately of the traffic that has been originated at San Francisco Bay points and transported by your line to Medford and Klamath Falls, Oregon, there interchanged to points beyond Klamath Falls and Medford, Oregon, has that traffic been proportionately the same as to other destinations for the first six months of 1940 as for the first six months of 1939?

A. Yes, it has.

Q. In other words, insofar as the increase of approximately 25 percent that you have mentioned is concerned, has the increase been proportionately general throughout the territory beyond Medford and Klamath Falls, Oregon?

A. By that you mean the territory spread out through Oregon, Washington, and various destinations?

Q. That is right.

A. Yes; that is true.

1187 Q. Now, why, in computing the figures in Exhibits 7, 8, and 9, did you not take into consideration the traffic at Sacramento, for example, and the traffic originating at points between the San Francisco Bay area and the Oregon-California border?

A. It would have been a tremendous task to put all those in.

Q. Now, is it true that the overwhelming bulk of the traffic originated is originated at San Francisco Bay points?

A. Yes.

Q. And the percentage of the traffic originating at either Sacramento or the intermediate points between the San Francisco Bay and the Oregon-California border are substantially smaller?

A. Yes.

Q. Has the traffic originating at Sacramento been increasing to the same proportion as the traffic originating at San Francisco Bay Points, or to a greater degree?

A. I would say to a greater degree.

Q. How long has your service been available out of Sacramento to Medford, Oregon?

A. Since July 1, 1939.

Q. That is when you acquired that service—strike that— that is when the corporation took the service over?

A. Yes, sir.

Q. Now, Frank M. Gritsch, one of the present directors and stockholders of the corporation, instituted that service some-

1188 time before then, did he not?

A. Yes.

Q. Do you recall exactly or approximately when that was?

A. I believe it was about a year and a half prior to July 1, 1939.

Q. In other words, that service, insofar as your company or your family interests are concerned, has been operated out of Sacramento only a matter of about a year and a half or so?

A. That is right.

Q. Now, Mr. Gritsch, do you have the exact figures as to the percentages of traffic which originated at Sacramento and the points between San Francisco Bay and the Oregon-California border as compared to the traffic originated as shown on Exhibits 7, 8, and 9?

A. No.

Q. Are you able to give an approximation as to the percentage of that traffic as compared with the San Francisco Bay traffic?

A. I would say 5 percent.

Q. About 5 percent?

A. Yes.

Q. Now, one more question. You indicated that the traffic the first six months of 1940 was approximately 25 percent higher than the first six months of 1939 based upon the

1189 computation of Exhibit No. 7.

A. Yes, sir.

Q. Now, would you say that the available revenue over the routes proposed to be served at Oregon by your line would likewise be substantially 25 percent——

A. (Interrupting.) Yes, they would.

Q. (Continuing.) Higher for 1940 than 1939?

A. Yes; they would.

Q. Based upon the tonnage actually moving during the first six months of 1940 you would say that the weekly average of rev-

enue as shown by Exhibit No. 8 would be subject to a 25 percent increase for the first six months of 1940?

A. Yes.

Mr. BEROL. That is all. You may take the witness.

Board Member BROWN To what do you attribute the increase in traffic and revenue?

The WITNESS. Well, I would say partly through solicitation efforts and partly through general increase in conditions in the territory.

Mr. BEROL. I will at this time offer Exhibits Nos. 7, 8, and 9 in evidence.

Chairman TERRIL. Any objection?

(No response.)

If not, they may be received and marked as Exhibits 7, 8, and 9 in evidence in this matter.

1190 (Exhibits 7, 8, and 9, Witness A. H. Gritsch, received in evidence.)

Mr. BEROL. One more question in order that there may be no misunderstanding.

Exhibit 7 indicates "originated at San Francisco Bay points."

By Mr. BEROL:

Q. Now, the tonnages studied in Exhibits Nos. 7 and 9, Mr. Gritsch, refer only to north-bound traffic, do they not?

A. That is true; these figures are all north-bound traffic.

Q. Is there included in those figures any tonnage originated at northern points that moved south over your line?

A. None whatsoever.

Board Member BROWN. Can you give an estimate in percentage of the amount of north-bound tonnage as compared to the south-bound tonnage?

The WITNESS. At the present time?

Board Member BROWN. Yes; or take 1939 first.

The WITNESS. I would say the ratio is approximately 80 to 20.

Board Member BROWN. 80 north-bound and 20 south-bound?

The WITNESS. Yes, sir.

Board Member BROWN. What would it be at the present time?

The WITNESS. At the present time it is just about the same.

By that you mean the freight originating north of Medford

1191 and Klamath Falls, Oregon, do you not?

Board Member BROWN. That is correct; yes.

The WITNESS. That is right, I would say 20 to 80.

Cross-examination by Mr. ELLIS:

Q. Do I understand you have prepared in similar form to Exhibits 7 and 8 any studies of traffic moving south-bound from points north of Medford?

A. No; we have not.

Q. Do you have available any break-down of the tonnage originating at San Francisco Bay points as distinguished from traffic originating at points south of the San Francisco Bay and received by your company from connecting carriers?

A. No; we did not figure that way.

Q. Are you in a position to state now what percentage of the traffic shown on your Exhibits 7 and 8 did actually originate at points south of San Francisco Bay?

A. Well, that tonnage runs around—by that I take it you mean 1939?

Q. Yes. During the period that you have used in these two exhibits.

A. The tonnage originating south of San Francisco and delivered to us here I would say at that time ran 3 to 4 ton a day.

Q. What is the condition at the present time as to tonnage originating south of San Francisco Bay and moving to points north of Medford?

1192 A. At the present time it is about 5 ton a day.

Board Member BROWN. To points north of Medford and Klamath Falls, do you mean, Mr. Ellis?

Mr. ELLIS. Yes; I mean points beyond your lines at the present time.

The WITNESS. Yes; approximately 5 ton per day.

By Mr. ELLIS:

Q. Refering to Exhibit No. 8, have you included in your earnings only the earnings for the Oregon mileage, or have you included there all earnings on the traffic shown including those earned between a point of origin and Medford or Klamath Falls?

A. No; these figures are the earnings which we would receive providing we hauled the freight north of Medford and Klamath Falls into the territory which we now propose to serve through this application.

Q. The earnings of the haul beyond Medford and Klamath Falls only, or did you include your earnings on that same traffic from the point of origin up to Medford?

A. No; this is only from Klamath Falls and Medford, Oregon north.

Board Member BROWN. That is just your proportion of the division?

The WITNESS. That is true. That does not include any revenue on the line haul from San Francisco and East Bay points to Medford or Klamath Falls.

1193 This figure is the per cent that we would receive providing we hauled the freight north of Medford and Klamath

Falls to points which we propose to serve by this application. In other words—I think I can make that clearer—if there is a lot of freight that goes, say, to Spokane, Washington, now, if we pick that up in San Francisco and take it to Medford, Oregon, where it is transferred to a connecting carrier, well, at the present time that connecting carrier receives 56 per cent of the revenue fom Medford, 56 per cent of the total revenue by hauling it from Medford to Spokane, so since our application does not take in Spokane, we had to break that revenue down to show what portion we would actually receive if we hauled it from San Francisco to Medford, thence from Medford to Portland, and that is this figure here.

Q. Can you say what percentage you would expect to receive if you delivered the freight to the connecting carrier at Portland instead of at Medford or Klamath Falls?

Mr. BEROL. Now, just a minute.

I am going to object to the question on the ground that I do not think in this proceeding we are concerned with what the percentages or the divisions between carriers is. The witness is testifying that he has broken it down under existing division arrangements with connecting carriers, and that he is using those specific divisions.

Board Member BROWN. Well, has he any divisional ar-
1194 rangements at the present time on traffic interchanged at Medford and then interchanged again at Portland?

Mr. BEROL. Oh, yes; I understand so.

You do, do you not?

The WITNESS. May I answer that question?

Mr. BEROL. Yes; of course.

The WITNESS. Yes; to the majority of the points, but there are some points that we have only one connection at the present time.

Board Member BROWN. On the Spokane traffic, do you have divisional arrangements with carriers at Medford and——

The WITNESS (interrupting). Also at Portland.

Board Member BROWN. What is the connecting carrier between Medford and Portland?

The WITNESS. We have the Pierce Auto Freight Lines in addition to Consolidated Freightways. Pierce Auto Freight Lines would take that same shipment to Portland, thence he would transfer it to a connecting carrier.

Board Member BROWN. And these figures are based on the existing divisions that you have at the present time, is that correct?

The WITNESS. Yes; that is right.

Chairman TERRIL. The objection will be sustained.

Mr. ELLIS. I don't want to argue about the objection, but I do want to note an exception and point out to the Board that the date

1195 is meaningless unless we know something about how it relates to the present earnings of the applicant on this same traffic for its present haul, and my question is directed eventually to ascertaining something concerning the present percentage of division and the revenue of the carrier for its present haul as relating to the figures that are shown here.

Board Member BROWN. That is an explanation of your exception?

Mr. ELLIS. Yes.

By Mr. ELLIS:

Q. Have you any prepared data showing what your operating costs are either per mile or per ton of freight for handling this traffic?

A. I have not; no, sir.

Q. Do you have any data showing what your present earnings are on the traffic shown on Exhibits 7 and 8 for the haul now performed by your company?

A. In our office we have those figures; yes, sir.

Q. You don't have them here?

A. I do not have them here.

Board Member BROWN. You mean on the haul from San Francisco Bay points to Medford and Klamath Falls?

Mr. ELLIS. Yes.

The WITNESS. I might state there, those figures must be kept for the State Board of Equalization and the
1196 State of Oregon. Those figures are available in our office.

By Mr. ELLIS:

Q. Is it fair to assume all of the revenue which you have shown on Exhibit 8 as accruing north of Medford and Klamath Falls, would be in addition to the revenue which you now receive for the haul to Medford and Klamath Falls?

A. Yes; this would be in addition.

Q. Have you made any allowance in your computations which would take into account the terminal expense which you incur in originating this traffic, or is that involved in your computation in any way?

A. No; it is not involved in this computation.

By Mr. FARRENS:

Q. Mr. Gritsch, is Exhibit 8 precisely the division which would have been paid to Pierce Auto Freight Lines by your company if all the freight shown on Exhibit 7 had been interchanged with that line?

A. No; because I don't know what Pierce Auto Freight Lines connections are to certain points like Marshfield, Coquille and

Coos Bay territory. I don't know what his setup is there, whether he takes that to Portland and brings it back or whether he exchanges it somewhere in transit. I don't know that.

Q. Well, is this precisely the division that would have been paid had all of this traffic been delivered at Medford to a carrier serving precisely the territory north of Medford and north of Klamath Falls, which you propose to serve under this

1197 application?

A. Yes; because the divisions are all figured, generally speaking, in the same manner.

Q. I am not concerned now about the manner in which the divisions are figured so much as I am concerned as to what Exhibit No. 8 represents. I want to be certain that what you are talking about is the revenue resulting from the application of the then existing divisions to that portion of the operation which is wholly north of Medford, Oregon.

A. Yes; that is right.

Q. Then, if you wanted to ascertain the total revenue which would have accrued to your line from the operations north of Medford which you now propose to offer, during the period covered by Exhibit 8, you would add 25 percent as representing the southbound traffic, is that correct?

Board Member BROWN. I think he testified 20 percent.

Mr. FARRENS. Well, but 20 is 25 percent of 80 percent.

The WITNESS. Would you repeat that question, please?

Chairman TERRIL. Give him the question.

(The question referred to was read by the reporter as above recorded.)

A. Well, I believe you are taking 80 percent, and then 20 percent of 80 percent, and adding 5, aren't you, to make 25 percent?

1198 By Mr. FARRENS:

Q. 20 percent is 25 percent of 80 percent.

A. Well, that is right.

Q. So all we would have to do is just to say, now, if you want this Exhibit No. 8 to cover both the north and southbound traffic just add 25 percent to it?

A. That is about correct; yes, sir.

Mr. BEROL. Counsel and the witness both went to the same school of mathematics, apparently.

By Mr. FARRENS:

Q. Then, your Exhibit No. 8 does not include anything but the divisional revenues on the northbound traffic?

A. That is right, from the San Francisco and Oakland Bay area only.

Q. And then if you wanted to recheck and ascertain an aggregate total with respect to Exhibit No. 8, after adding 25 percent to cover the southbound traffic, you would have to add another 5 percent to that aggregate in order to cover the traffic originating at and destined to Sacramento?

A. Yes.

Q. And other points in California north of the Bay points?

A. No; that 5 percent was only Sacramento. There is an additional traffic from Redding and Yreka, Weed and Dunsmuir, Vallejo, all along the line, because we serve all intermediate points from San Francisco and Oakland to the Oregon line.

1199 Q. Well, now, you answered your counsel's question precisely this way: He asked you what percentage of the total traffic was represented by traffic originating at Sacramento and points intermediate between San Francisco Bay and the Oregon-California State Line and you said 5 percent.

Now, were you in error about that?

A. I misunderstood the question because the testimony was from Sacramento only.

Q. All right, can you answer the question which he really did ask you, then?

A. I would say there would be an additional 5 percent for the territory from—well, I will change that—from the first point beyond Oakland to the Oregon line which would include all intermediate points from Oakland to the Oregon line, both on Highways 99 and 97.

Q. Well, then, if you want to know the total revenue that appears covered by Exhibit 8, which would have been derived by your company from all sources through the operation by it of the lines which it now proposes to operate, you would add 25 percent and then you would add 10 percent of that aggregate and that would be the gross total, wouldn't it?

A. Well, approximately it should; yes.

Q. Now, if I understood your testimony correctly, you are handing over to Consolidated Freightways at Medford approximately four times the freight they hand over to you at

1200 Medford?

A. Yes, sir.

Q. And when we are considering the aggregate total to which I have just referred by adding the percentages mentioned in the recent question, we are considering, then, the total traffic which would be divided by those two carriers if both applications were granted; is that correct?

A. No; I wouldn't say that.

Q. What other traffic would there be to divide besides what you are now handling?

A. Well, I don't believe I understand your question.

Q. Well, Mr. Gritsch, if both applications are granted this traffic is going to be divided to some extent between both applicants, isn't it?

A. Well, it may be divided, but you can't tell what percentage ought to be divided. There is still additional traffic in the territory to be secured.

Q. And there is still additional competition in the territory seeking it too, isn't there?

A. That is true.

Q. You are prepared to admit, are you not, that your company would not expect to secure all the traffic affected by Exhibits 7 and 8 in the event both applications are granted?

A. Well, that is hard to say. I don't believe we would get all of the traffic; we may lose part of the present traffic;
1201 we may increase our traffic by new shippers. That is a little difficult to estimate at this time.

Q. And your competitors may take away from you some of your present shipments too, may they not?

A. That is true.

Q. But if you manage to hold all of the north-bound traffic which you now interchange at Medford and left the Consolidated, assuming its application is granted, none of it, but they managed to hold all of their south-bound traffic and left you none of it, you would both be in a pretty hopeless situation with respect to the extension, would you not?

Mr. BEROL. May I have that question?

(The question referred to was read by the reporter as above recorded.)

Mr. BEROL. Well, the question is highly objectionable, but I am not going to object.

A. Well, in my experience in the motor freight industry, shipments or shippers do not work that way. We have started several new services in the past ten or eleven years, starting with no business whatsoever and have worked them up in a short time to a very substantial tonnage in the territory where there was competition.

Mr. FARRENS. You are not answering my question.

Mr. BEROL. I think he is, decidedly. You asked for it; you are getting it and not liking it.

1202 By Mr. FARRENS:

Q. You are not answering the question. You are assuming that something on which my question is based is wrong.

I said if you retained all the north-bound traffic and Consolidated retained all the south-bound traffic you would be in a pretty hopeless position?

A. Yes; but that isn't the only traffic that is available.

Chairman TERRIL. Answer the question.

The WITNESS. I said "yes."

Mr. FARRENS. That is all right; he has answered it now.

By Mr. FARRENS:

Q. Now, you spoke about a 25 percent increase in traffic during the first six months of 1940 as against the first six months of 1939.

A. Yes, sir.

Q. Isn't it a fact that there was a similar increase in rail traffic during the same period?

A. An increase in rail traffic?

Q. Yes.

Mr. BEROL. If you know, Mr. Gritsch.

A. I am not familiar with the rail figures for that period.

By Mr. FARRENS:

Q. Did your traffic between California and Nevada increase during the same period?

A. Not in the same proportion.

Q. In what proportion did it increase?

A. Well, I don't have those figures available.

Q. Would it be more or less?

1203 A. Less proportionately.

Q. Substantially less?

A. In percentage, yes; less percentage.

Q. Well, now, you attributed that in your direct testimony to an increase in solicitation, an increase in the effectiveness of your solicitation. Did you—

Mr. BEROL (interrupting). Also an increase in general business conditions.

A. That is true, but conditions in Nevada haven't been what they should be, the way I understand from our present——

By Mr. FARRENS (interrupting).

Q. The variation in the increase in percentage of your Nevada business has not been due to any decrease, proportionate decrease in solicitation or the effectiveness of your solicitation, has it?

A. As far as Nevada is concerned; no. There is, as I understand it, a business slump in Nevada.

Q. Now, as a matter of fact, aren't you prepared to admit that the 25 percent increase to which you have been referring is due

almost wholly to a general increase in the volume of freight shipments by all means of transportation?

A. By all means of transportation?

Q. Yes; except water, of course.

A. It is difficult for me to answer that question because I am not familiar with the figures of these other carriers in the same territory.

1204 Q. Now, your daily average, according to Exhibit 7, was 73,056 pounds; your daily average, according to Exhibit 9 is 85,100 pounds. That figures out to about a 16 percent increase *instated* of 25.

A. That is correct, but the reason for that is that in the exhibit, February 6 ——

Mr. BEROL (interrupting). You mean Exhibit No. 7?

The WITNESS. Exhibit No. 7, we have taken four weeks, February, May, August, and November. In Exhibit 9 we have taken January, February, March, April, May, and June, which is the first six months of the year.

Our traffic is always heavier in the second six months than in the first six months.

Now, if you will take the first two weeks of Exhibit 7, and compare it to January, February, or March you will get approximately 25 percent.

By Mr. FARRENS:

Q. Now, neither Exhibit 7 nor Exhibit 9 reflects the condition which you are now facing under which Pierce Auto Freight Lines is running a daily service between Portland and San Francisco instead of the weekly service between Portland and Medford?

A. Well, Pierce Auto Freight Lines was running during the month of June, was he not?

Q. June 24th only.

A. Well, our July figures aren't available at this time.

1205 Q. So you will have increased competition from June 24th on which you did not theretofore have?

A. But from my observation of our present tonnage there at the office every day it has not decreased any; in fact, I believe it has increased considerably in the last two or three months.

Q. You feel the more competition you have the better your business is going to be?

A. Well, that is a little difficult to say. We have always withstood all competition so far.

Mr. FARRENS. I think that is all.

By Mr. IVERS:

Q. Mr. Gritsch, does a large percentage of the traffic which is covered by your exhibits move on class rates?

A. In the northwest practically all the freight moves on class rates. There are a few commodity rates, but very few.

Q. Now, about during the month of May 1940 there was a sharp decrease in the class rates upon which this traffic was moving, was there not?

A. To a very few points.

Q. Well, wasn't the decrease to all the major points in the northwest?

A. No; there was a decrease in the rates to Portland, Seattle and Tacoma.

Q. That is where the volume of the traffic is moving, isn't it?

1206 A. No; not the largest portion of it.

Q. Well, where is the largest volume moving?

A. It is spread all over the States of Oregon and Washington and into Idaho and Montana.

Q. Is it your testimony that the majority of the traffic covered by Exhibits 7, 8 and 9 moved to points other than Portland, Tacoma, Seattle and the major points on Highway 99?

A. Not the major portion.

Q. Well, the points to which these reductions went into effect?

A. The major portion of the freight?

Q. Yes.

A. Does not move to Portland, Seattle and Tacoma.

Q. Well, what percentage do you think was affected by this rate reduction, what percentage of the traffic covered by Exhibits 7, 8, and 9?

A. Well, this rate reduction, if I recall properly, didn't change the third or fourth class. It merely changed the first and second class and the majority of the freight moves under third and fourth class.

Q. Now, if, as a matter of fact, the reduction was 47 cents on first class, 40 cents on second class, 32 cents on third class and 28 cents on fourth class, I want you to answer me how much of the traffic on Exhibits 7, 8 and 9 would be affected by those decreases?

1207 A. Well, I can't say as to Exhibit 9, but 7 and 8 was prior to the time that this rate reduction went in. The truck rates, or our truck rates were much higher than rail rates to Portland, Seattle and Tacoma, also much higher than water. We got a very small portion of the first and second class freight to Portland and Seattle and Tacoma because of the rate differential. After reducing the rate, the rate is still a substantial rate, $1.81 a hundred to Seattle first class, $1.76 to Portland, and those rates are still high enough and they are now competitive with other means of transportation.

Therefore, we will increase our first and second class tonnage considerably into those territories.

Q. Well, now, will you answer my question? What portion of the traffic covered by these exhibits would be or is affected by the rate reductions?

A. I would estimate 25 percent.

Q. So that——

A. (Interrupting.) Now, excuse me; let me correct myself. I would estimate that 25 percent of the freight goes to the territory where the rates have been changed, but only the first and second class rates have been changed. Therefore, it is difficult to say how much of the freight moving to Portland and Seattle is first and second class merchandise; I can't tell.

Q. Do you mean that in the tariff in which you partici-
1208 pate the first and second class rates were reduced and the third and fourth class rates were not reduced?

A. Very little on any quantity shipments.

Q. Well, were they reduced on any shipments other than any quantity?

A. Yes; on quantity shipments they were reduced. I am not sure just what those reductions are offhand. I don't rate the bills at our office; I am not familiar with the exact amount of reduction.

Q. Well, now, just so there is no misunderstanding, it is your understanding that of the traffic shown on Exhibits 7, 8 and 9 only 25 percent is destined for Portland, Tacoma and Seattle?

A. That is my estimate.

Mr. FARRENS. Could I interrupt?

By Mr. FARRENS:

Q. The reduction to which Mr. Ivers refers would have intermediate application to points south of Portland like Salem, Woodburn, and so forth, wouldn't it?

A. No; those reductions were from port to port towns only. You understand why those reductions were put in, don't you?

Q. I think probably I do.

A. They were put in because there was a port to port rate from San Francisco and the Bay points to Portland and Seattle. In addition to that, the rail carriers were assessing a pick-up and delivery charge at each end which made a lower pick-up and
1209 delivery rate than the truck rates because of the lower existing port to port rate, so motor carriers in Pacific Inland Tariff No. 9–A decided to establish the same pick-up and delivery rates to Portland, Seattle and Tacoma, as the rail.

Q. And am I to understand that 75 percent of the traffic shown on Exhibits 7, 8 and 9 is destined to points north of Medford and

Klamath Falls and south of Portland, Oregon, with respect to that portion which goes no further north than Portland?

Mr. BEROL. No; he didn't say that.

Mr. FARRENS. I am asking him whether that is a fact.

A. Well, that is a little difficult for me to answer offhand.

Mr. FARRENS. Thanks for the courtesy.

Board Member BROWN. Let's get this straight.

When you reduced those rates to Seattle, Tacoma, and Portland did you hold those points as maximum? Are those rates at the intermediate points now higher?

The WITNESS. They are at the present time. The rate to Medford and Portland, Oregon, which is halfway to Seattle is $1.76 first class. The first class from San Francisco to Seattle is $1.81.

Board Member BROWN. What is the first class rate to Portland, Oregon?

The WITNESS. $1.76.

Board Member BROWN. At the present time?

1210 The WITNESS. Yes, sir.

Board Member BROWN. What is the first class rate to Salem?

The WITNESS. Salem is $1.81.

Board Member BROWN. Is there going to be anybody to testify to the rate situation?

Mr. BEROL. No, sir; not from us, unless some specific request is made for it. I don't see the pertinency of the rate problem to the application pending here, unless whatever pertinency any reduction of rates may have to the ability of the carrier to perform the service.

Board Member BROWN. I was directing my question more to Mr. Ivers, as long as he brought up the point.

Mr. IVERS. The only reason I brought up the point was that on direct examination counsel elicited a fraction of 25 percent of this revenue shown on here that would have resulted from this carriage would have increased the revenue last year which I do not believe to be the fact due to the rate reductions.

Now, that is the only reason I went into it. I didn't go into it with any other purpose in mind.

The WITNESS. Well, naturally at the present time with reduced rates which are now competitive with rail pick-up and delivery service to Portland and Seattle, I am confident that our ton-

1211 nage into that territory will be substantially increased. In fact, it is increasing every day at the present time.

Mr. IVERS. Of course, if it increases too materially the railroads will probably reduce it again.

Mr. BEROL. Objected to as being entirely speculative.

Board Member BROWN. Objection sustained.

Mr. IVERS. That is all I have.

Chairman TERRIL. Any further cross examination of this witness?

By Mr. JENNINGS:

Q. Mr. Gritsch, have you already arranged for divisions with the carriers beyond Portland?

A. Yes.

Q. Have you those divisions now established?

A. With a number of the carriers; yes.

Q. It would be possible, then, for you on Exhibit 8 to show what the actual figure would be rather than as to what it was under some previous arrangement or under your present arrangement?

A. Yes; it could be figured.

Q. Could you give us any idea as to what difference there would be in the figures on Exhibit 8, if you used the divisions which you have established with the carriers beyond Portland?

A. The figures would be approximately the same as these: that is what this is based on. This is only that portion of the revenue which accrues to the carrier from Medford and Klamath
1212 Falls to, say, Portland, or any points which we propose to serve by the application.

Q. Well, perhaps I didn't understand you. In referring to shipments to Spokane——

A. Yes, sir.

Q. I understood you to say that this was based on a percentage of 56 per cent to the carrier beyond Medford; is that correct?

A. No; this here is broken down again, this exhibit here, Exhibit No. 8 because——

Q. (Interrupting.) The 56 percent is broken down?

Mr. BEROL. You might explain it fully again, Mr. Gritsch, so all present may understand.

The WITNESS. I will explain to you how the division is set up between San Francisco and Spokane.

The first class rate from San Francisco to Medford at the time the division sheet was established was $1.76. The first class rate from Medford to Portland was $1.51. The first class rate from Portland to Spokane was $1.40. We add those three first class rates together, then, we take each carrier's pro rate of the total of those three figures and that is the percentage proportion of revenue that the carrier gets for hauling the shipments on their own particular line and that is the way we arrived at the figures on Exhibit No. 8.

Mr. BEROL. May I ask a point that might clarify that at
1213 this time?

Board Member BROWN. All these divisions are on a rate prorate basis?

The WITNESS. In the northwest they are.

Board Member BROWN. Not on a mileage basis?

The WITNESS. Rate prorate.

Board Member BROWN. Now, on your divisions that you contemplate making effective if this application were granted, are they also based on a rate prorate?

The WITNESS. Well, your Honor, at the present time we have them established at practically all the points and they are figured the same way.

Board Member BROWN. You don't contemplate any material change, then, in your divisions?

The WITNESS. No; they have been agreeable to all carriers up to the present time so far as I know, and I have had no complaints.

By Mr. JENNINGS:

Q. Do I understand that the connecting carriers are now agreeing to the same divisions on a two-line haul that they previously had on a three-line haul?

A. Practically they have.

Board Member BROWN. You don't mean the same volume?

The WITNESS. The same basis.

Board Member BROWN. The same basis of division?

The WITNESS. Yes sir.

1214 By Mr. JENNINGS:

Q. With reference to this rate reduction that you have spoken of as a matter of fact, there was a reduction in so far as tonnage shipments were concerned, wasn't there?

A. Yes, sir.

Q. Even at Portland?

A. There has been.

Q. On the points beyond Portland such as Seattle, Tacoma, there was also in addition to the 47 cent any quantity reduction a tonnage reduction there?

A. Yes; there was.

Q. Do you know whether by reason of those reductions the combination of local rates has been defeated, in other words, the through rates to the points beyond Seattle, for example, are now higher than the combination of locals?

A. I haven't made a study of that as yet.

Q. You don't know?

A. No, sir.

Mr. JENNINGS. That is all.

Redirect examination by Mr. BEROL:

Q. Mr. Gritsch, calling your attention to Exhibit No. 9, I notice for the month of June there was a drop of tonnage under the month of May. How do you explain that?

A. That reduction for the month of June over May was
1215 because of a strike in Oakland. We were tied up in Oakland and all shipping ceased there during practically the entire month.

Q. During what period did that strike last?

A. Practically the entire month of June and, I believe, part of July, the early part of July.

Q. Were you able to move any tonnage out of Oakland during the portion of the month of June that the strike was on?

A. No; none whatsoever.

Q. Does that account for the reduction in tonnage?

A. That is what accounts for that reduction in tonnage for the month of June over May.

Mr. BEROL. Now, I want to ask Mr. Gritsch a question that is not proper redirect, but I overlooked it on direct. I will ask permission at this time to ask it.

Chairman TERRIL. Yes.

By Mr. BEROL:

Q. Now, Mr. Gritsch, we were asked at an earlier hearing to supply a list of the concurrences which Smarts Auto Freight has to and from the San Francisco Bay area at the present time. Have you a list of those concurrences?

A. Yes; I have.

Q. Will you state what they are?

A. Yes.

Q. Using only the concurrences applicable to and from San Francisco Bay points.

1216 A. In Pacific Inland Tariff No. 9-A and Tariff 5-A, which is used in connection with Tariff 9-A, there is routing 226 from San Francisco, which is Pierce Auto Freight Lines to Portland, Oregon, thence Smarts Auto Freight to destination.

Now, these particular destinations are the towns between Portland and Seattle. They take in Vancouver, Kelso, Longview, Toledo, Tacoma, Puyallup, Sumner, Kent, and certain other towns in that territory.

Q. That generally being the territory served by Smarts Auto Freight between Portland and Seattle?

A. That is correct.

Q. Will you name whatever other concurrence are named in this tariff?

A. Then, there is routing No. 62 from San Francisco, California, via Pacific Truck Express to Portland, thence Smarts Auto Freight to practically the same points as before mentioned, and there is routing 182, which is Oregon-California Fast Freight, Inc., to Medford. That name has since been changed to Oregon-Nevada Fast Freight, Inc.; to Medford, Oregon, thence Pierce Auto Freight Lines to Portland; thence Smarts Auto Freight Lines to Seattle and Olympia; Penninsula Motor Freight to destination.

Now, there are two particular towns covered by this routing, that is, Port Townsend, Washington, and Port Angeles, Washington.

1217 Then, there is routing No. 11 which is Oregon-Nevada-California Fast Freight, Inc., to Medford, Oregon; thence, Pierce Auto Freight Lines to Portland, Oregon; thence, Smarts Auto Freight to destination.

That covers practically the same territory as before mentioned between Portland and Seattle.

Then, there is routing No. — excuse me—may I ask a question at this point?

Mr. BEROL. Yes, sir.

The WITNESS. Did you want—we have one routing from Los Angeles—would you want that in?

Mr. BEROL. You might while you are at it; yes.

The WITNESS. There is a routing, California Motor Express from Los Angeles to San Francisco; thence, Pacific Truck Express to Portland; thence, Smarts Auto Freight to destination. That also takes in the territory from Portland to Seattle including intermediate points.

There is routing No. 360 which is Oregon-Nevada-California Fast Freight, Inc., to Medford; thence, Pacific Truck Express to Portland; thence, Smarts Auto Freight to destination.

That applies to the points from Portland, including intermediate points to Seattle and it also applies from Sacramento, California to Vancouver, Washington; La Center, Washington; Woodland, Washington; Kalama, Washington and Kelso, Washington.

1218 Then, there is routing No. 229 Pierce Auto Freight Lines to Portland, Oregon; Smarts Auto Freight to Seattle, Washington; and Peninsula Motor Freight to destination. That also includes Port Townsend, Washington and Port Angeles, Washington, and there is a routing via Crescent City.

By Mr. BEROL:

Q. I don't think we would be interested in that.

Does that include the complete list of concurrences between San Francisco Bay points and Washington points?

A. In connection with Smarts Auto Freight according to the tariff.

Q. Now, that tariff is the Pacific Inland Tariff Bureau Tariff?

A. Yes; No. 9-A.

Q. And Smarts Auto Freight is a participating carrier in that?

A. Yes, sir.

Q. Your line is?

A. Yes; all carriers mentioned in the routing are parties to that tariff bureau and also participate in that tariff.

Q. Including Consolidated Freightways?

A. Yes.

Q. It includes a substantial number of carriers serving the northwest, does it not?

A. Yes; there is a large number of carriers in that tariff.

Mr. Berol. I think that is all.

1219 Chairman Terrill. Anything further from this witness?

(No response.)

You may be excused, Mr. Gritsch.

(Witness excused.)

We will take a recess at this time.

(Thereupon a short recess was taken after which proceedings were resumed as follows:

Chairman Terrill. We will be in order, gentlemen.

Mr. J. A. Gritsch.

Let the record show Mr. Gritsch has been previously sworn in this matter.

J. A. Gritsch having been previously sworn, testified as as follows:

Mr. Berol. If the Board and the Examiner please, I stated at an earlier hearing that we would advise the Board and the Examiner the commodities that we propose to exempt from our general application for the transportation of general commodities.

I might state that we propose the same exemptions that are carried in our present operating authority from the Commission under Docket No. 9115 and they read as follows: Commodities generally except "articles of extraordinary value (other than ore concentrates) liquids in bulk, high explosives, livestock, machinery requiring special equipment for handling and assembled automobiles."

1220 We will ask that our application be amended accordingly so that it will seek authority to transport general commodities with the exception of those specific commodities that I have just mentioned.

Exam. KEPHART. The Commission usually includes articles contaminating to other lading, also, injurious or contaminating to other lading.

Mr. BEROL. Well, it isn't included in our present operating authority and frankly I dont know what that designation of articles "contaminating to all lading" means. For example, the testimony here shows that we propose to haul fish and we propose to haul butter. The testimony shows that fish is contaminating to butter.

Now, I don't want that kind of a ruling to indicate that we have got to choose either between fish or butter.

Exam. KEPHART. I am not putting any official definition of that term on the record.

Mr. BEROL. If I knew what the term meant perhaps I wouldn't object, but under the circumstances I am going to ask that the statement I made be our proposal.

Exam. KEPHART. That will be noted on the record.

Direct examination by Mr. BEROL:

Q. Now, Mr. Gritsch, with respect to your application, have you give consideration to the proposition as to whether or not
1221 under your present plan or under your connecting arrangement at Medford and Klamath Falls, the service could be improved sufficiently so as to give the kind of service that you are proposing to give here?

A. No; it couldn't; it could not.

Q. Now, particularly with respect to suggestions that have been made that equipment of one carrier might be ready and available to transfer the lading and immediately move on, have you given any consideration as to whether that, from a practical standpoint, can be accomplished?

A. Well, not as practical as operating through equipment by one carrier.

Q. You said only by operating through equipment?

A. Yes.

Q. The question particularly was directed to those instances where you change the lading from the equipment of one company to the equipment of another company. Now, in connection with that are there certain delays that you are faced with that cannot be eliminated?

A. There are; yes.

Q. What are those delays?

A. Well, the transfer of the freight, rebilling.

Q. Checking?

A. Yes.

Q. Normally how long would those operations take insofar as transferring the lading from one piece of equipment, from
1222 one company to another piece of equipment of the other company is concerned?

A. It depends a whole lot on what kind of merchandise it is. I would say all the way from—and, of course, the amount of tonnage that is to be transferred—I would say all the way from one hour to three, four hours.

Q. Would it also depend upon the number of pieces of property belonging to a different number of consignors or consignees?

A. That is correct; yes.

Q. Is it your view that if the lading consists of fewer pieces destined to fewer consignees or originating from fewer consignors that the time will be less?

A. It will; yes.

Q. Now, what are the variations that you experience in the number of different shipments that may be on any one truck?

A. Well, all the way from three or four up to a hundred.

Q. And is it your statement that the more shipments on any one truck the longer time will be involved in the transfer of the lading?

A. That is correct.

Q. Now, with respect to the interchange of equipment, how long have you and Consolidated been interchanging equipment.

A. Approximately a year.

Q. Approximately a year. Are there any inherent dif-
1223 ficulties involved in the proposition of interchanging trailers or equipment that you have met in your years' experience in that province?

A. Yes; there is.

Q. Will you describe what they are?

A. Well, my idea of operating equipment is different than that of Consolidated Freightways and also there is a different weight restriction in the State of Oregon than there is in the State of California.

Q. Now, you state that your ideas of operating equipment are different from that of Consolidated Freightways. Have you discussed your ideas and the ideas of Consolidated Freightways with a view of attempting to arrive at the same idea regarding the use of equipment?

A. I have; yes.

Q. And have you been able, in your discussions with Consolidated Freightways, to arrive at a standardization of equipment that will be satisfactory to both companies?

A. No.

Exam. KEPHART. Well, you know that was done in the case of railroads, do you not, Mr. Gritsch, the standardization of railroad equipment for interchange among connecting carriers?

The WITNESS. That is true, but if I operate the same kind of equipment that Consolidated Freightways operate in Oregon, I would be cut down on the gross weight considerably between
1224 here and the Oregon Line.

Board Member BROWN. Aren't you going to be cut down anyway in your operations north of Medford, or north of the California-Oregon Line?

The WITNESS. I will be, yes; but at the present time in California you can haul 34,000 pounds gross on a six-wheel trailer, in other words on a trailer about 11 ton net pay load. When I get to the Oregon Line it will be converted into a semitrailer by using a tractor that will go right on through with approximately 11 ton pay load. If I transferred it I would only be allowed by 12½ ton.

Board Member BROWN. How do you transfer it now with Consolidated where you run through equipment?

The WITNESS. If I got 11 ton on the trailer, when they get to Medford they have to take off about 3½ ton and put that on their truck to get into the weight in Oregon.

Mr. BEROL. May I proceed?

Chairman TERRIL. Yes.

By Mr. BEROL:

Q. Will you describe the difference between the type of equipment that is used by your company and the type of equipment that the Consolidated Freightways use generally in their company?

A. Well, they use mostly—some places they use two axle trucks and two axle trailers. Other places they use a two axle truck and a three axle trailer.

1225 Q. In other words, is it their view or their policy as to the sound operating practices in Oregon to use a truck and trailer combination?

A. That is correct; yes.

Q. Now, what is your view with respect to what is sound operating policy as respecting the use of equipment by your company applicable to both California and Oregon?

A. Six weel trucks and six wheel trailers in California and a semi trailer in Oregon.

Q. In other words, a tractor and semi trailer combination in Oregon?

A. That is correct; yes.

Q. Now, have you been able to convince Consolidated of your views as to the proper type of equipment to use in Oregon?

A. No; I have not.

Q. Has Consolidated been able to convince you of their views to run the small truck and the small trailer rather than the combination of the tractor and semitrailer?

A. No.

Q. Is it your view that in the responsibility of managing your company that you should be permited to exercise your own discretion as to what is proper and profitable equipment to use?

A. That is correct.

Q. Are there other difficulties that you have experienced
1226 in the effort to interchange equipment so as to operate through equipment between California and Oregon-Washington points.

A. Well, there is lots of them but I can't think of them right offhand.

Q. Have you had any difficulty in getting together with Consolidated on the policy of how to dispatch freight with respect to the movement of freight to various points?

A. Yes; I have.

Q. What are their views as to the proper method of dispatching freight?

A. Well, for instance, at the present time the through equipment is loaded for Portland proper and Seattle and Tacoma proper only. All the interchange freight like Spokane, Wenatchee and all other points there is transferred at Medford. Consolidated wants to have all Yakima freight or all Spokane freight in one piece of equipment so that they can load their equipment right from Medford to final destination.

Q. Now, what effect does that have upon dispatching your freight for your trucks out of the Sacramento and San Francisco areas?

A. It delays us quite a bit here by trying to do so, or by doing so, for the simple reason that we have got to hold each piece of equipment until the last pickup truck is in and unload it and check it and load it at night.

Q. What time is that usually?

A. Well, it is between 7 and 8 o'clock.

1227 Q. And has that made it necessary for you to hold your line haul equipment until the last pick-up truck has been in and checked and ready to load into the line haul equipment?

A. That is correct; yes.

Q. Now, have you in deference to their desire to have your freight dispatched in that manner attempted to comply with it?

A. (No response.)

Q. I will reframe the question. It is not intelligible.

Pursuant to their wishes, have you dispatched your trucks out of the San Francisco area in the manner in which they desire?

A. Yes.

Q. And has that had any effect upon your operations insofar as your movements to the north are concerned?

A. Yes; it has delayed us.

Q. Now, have you discussed with them the feasibility of changing that practice?

A. I have; yes.

Q. And have you been able to convince them of the feasibility of dispatching your freight and your equipment out of San Francisco as and when it is ready?

A. No; I haven't been able to sell them on the idea to let the equipment start as quick as it was loaded.

Q. And the result of these negotiations and further as a result of your experience, have you been able to sell them on the idea that the trucks and the freight should be dispatched as and when ready instead of waiting until the last pick-up and delivery truck is in?

1228

A. Well, I have tried to sell them on the idea. I have been unable to do so.

Q. Have these problems been the subject of conversations for some time?

A. They have; yes.

Q. Now, are these operating problems of which the management of your company and the management of Consolidated Freightways are substantially at variance?

A. I would say; yes.

Q. And is it their view that they should be permitted to handle these operating problems as they feel best?

A. That is correct; yes.

Q. And is it your view that you should be able and be permitted to handle these operating problems as you feel best?

A. That is correct; yes.

Q. Is it your view that the handling of these operating problems in accordance with your own judgment is necessary in order to enable you to continue to operate profitably and give the public the service that you desire to give them?

A. Yes; that is correct.

Q. Now, are these problems of managerial discretion of policy problems that are important in the operation of the business?

1229

A. Very important; yes.

Q. And you state they are problems that you and the management of Consolidated Freightways have not been able to agree upon?

A. That is correct; yes.

Q. Now, Mr. Gritsch, have you given any consideration to the financial aspect of your proposed extension into Oregon and certain designated points in Washington?

A. I have; yes

Q. And, based upon those considerations, have you formed an opinion as to whether, if the Commission permits you to institute the operations you propose, you will be able to operate profitably?

A. I will; yes.

Q. Are you convinced of that?

A. Yes, sir.

Mr. BEROL. That is all of this witness.

I might state that there was a request made upon us by Mr. Farrens to furnish for the record all correspondence that this applicant has had with Consolidated Freightways pertaining to the organization that has been referred to in the record as Freightways.

I might state that upon looking through the files, with the exception of several letters that have already been offered in
1230 evidence, we have several letters in addition. I have shown them to Mr. Farrens. If he desires they be put in the record, I will do so. I have no particular desire to do so; I don't think it will add anything.

Mr. FARRENS. If the Board please, there is only one of the several letters which counsel has shown to me which I think would be helpful to the Board in deciding this case. That is a letter written by Consolidated Freight Lines, Inc., signed by Mr. Leland James under date of October 14, 1938, and addressed to Mr. T. S. Carter and others, including Mr. Joe Gritsch. That letter I would like to see go in the record.

By Mr. BEROL:

Q. I show you, Mr. Gritsch, a letter dated October 14, 1938, letterhead of Consolidated Freightways, Inc., bearing the signature on the second page thereof "Very truly yours, Consolidated Freight Lines, Inc.; Leland James," and I will ask you if you received that letter in due course of mail?

A. (Examining document.) Yes, sir.

Mr. BEROL. And let the record show that pursuant to the request of Mr. Farrens I am now submitting and offering in evidence as exhibit number next in order the letter consisting of two pages which has just been described.

Chairman TERRIL. I presume there is no objection so it will be——

Mr. JENNINGS (interrupting). I don't know what it is.
1231 Chairman TERRIL. Does anyone want to see it?

Mr. JENNINGS. Yes; I would like to see it.

Chairman TERRIL. The letter referred to will be received in evidence and marked as Exhibit 10 in this matter.

(Exhibit No. 10, Witness J. A. Gritsch, received in evidence.)

Chairman TERRIL. Are you ready to proceed now?

Board Member BROWN. Does that finish your direct, Mr. Berol?

Mr. BEROL. Yes, sir.

Board Member BROWN. Mr. Gritsch, do you encounter the same operating difficulties with your other connecting carriers?

The WITNESS. Do I?

Board Member BROWN. Yes.

The WITNESS. Yes.

Board Member BROWN. As an experienced operator what do you believe the maximum delay at the interchange point should be?

The WITNESS. Well, that depends a whole lot on the type of merchandise.

Board Member BROWN. I am talking about the maximum delay.

The WITNESS. The maximum?

Board Member BROWN. Under efficient operation by both companies?

The WITNESS. I would say a truck and trailer load of freight, which is about 16 or 17 tons, three to four hours.

1232 Board Member BROWN. Now, would you have any of that delay in the event that you were granted a through operative right? How much of that delay would be encountered because of the different weight restrictions in California and Oregon?

The WITNESS. Well, as far as my company is concerned there would be none for the simple reason that the tractors that would pick the trailers up at the Oregon State Line would proceed right on through to Portland and points north of Medford. At the present time they go out to the line now and get the tractors and pull them, or the trailers and pull them in as far as Medford.

Board Member BROWN. How much time is required to do that now?

The WITNESS. I think it takes about 40 minutes. We really don't go to the Oregon Line at the present time. We go to the south city limits of Ashland which is 12 miles south of Medford.

Chairman TERRIL. That same delay will still apply even though you are granted through rights, Mr. Gritsch?

The WITNESS. It takes about 5 minutes, I would say, to take the front wheels from out under the trailer and hook up the tractor.

Board Member BROWN. Would do you think would be the average delay under efficient operation between the two companies with more cooperation between the two companies?

1233 The WITNESS. That is pretty hard for me to answer. I would say probably——

Mr. BEROL (interposing). Without attempting to be facetious or presumptions, but in all seriousness and earnestness, I direct a question to the Joint Board Member as to how, under the circumstances, as described by the witness, there would be obtainable more cooperation between the two companies?

Board Member BROWN. I think the witness got the question.

The WITNESS I said that there would be a delay of from four to eight hours.

Board Member BROWN. What is the delay at the present time, the average delay?

The WITNESS. That is about what it is now, four to eight hours.

Board Member BROWN. You think that delay would still be encountered?

The WITNESS. For the through equipment, if I was to run on through, you mean?

Board Member BROWN. No; if you had the maximum efficiency in your operation, do you think that delay would still be encountered?

The WITNESS. Well, it could be cut down some.

Board Member BROWN. How much?

The WITNESS. I could say probably about a third.

1234 Chairman TERRIL. You interchange with other carriers at other points on your operation at the present time, Mr. Gritsch, I believe you previously testified?

The WITNESS. That is correct; yes.

Chairman TERRIL. Do you have any interchange which involves a total change similar to that at Medford?

The WITNESS. No; I have no other point where we interchange the volume of freight as we do at Medford.

Chairman TERRIL. I don't mean that. Do you have any place where a whole truck and trailer load of freight is interchanged with another carrier?

The WITNESS. No; I do not.

Exam. KEPHART. How about Wells, Nevada?

The WITNESS. I don't interchange any freight at Wells.

Board Member BROWN. How about Elko?

The WITNESS. No freight at Elko.

Exam. KEPHART. What is your terminus there?

The WITNESS. Elko, Nevada.

Exam. KEPHART. Elko is your terminus.

The WITNESS. That is correct.

Chairman TERRIL. You don't have at any time a full load of freight to interchange with a connecting carrier at that point?

The WITNESS. No; I don't; because I don't take any Salt Lake or Utah or Idaho freight.

1235 Exam. KEPHART. You mean the freight you take is destined no further than Elko?

The WITNESS. That is correct.

Chairman TERRIL. Then, you have no experience in your own operation other than that with Consolidated with which you could compare the delays that are incident at Medford?

The WITNESS. No; I am not.

Chairman TERRIL. And I am correct when I say that the 40-minute delay for the change to a tractor and trailer would be the only delay that would be incident to a through operation between California and Oregon?

The WITNESS. Well, it wouldn't be a 40-minute delay. At the present time it takes practically 40 minutes from the time we leave Medford until we get to Ashland and get the trailer back into Medford, but it really only takes about five minutes to convert it from a six-wheel trailer to a tractor, a semitrailer.

Chairman TERRIL. That would be the only lost time that would be incident to a through operation?

The WITNESS. That is correct; yes.

Exam. KEPHART. On less than truckload quantities in how many instances could that go through on through equipment and have to be rehandled or put on the equipment of the other company?

1236 The WITNESS. Well, practically all the small less than trailer loads or truckloads would be interchanged at Portland with other carriers.

Exam. KEPHART. You mean interchanged at Medford?

The WITNESS. No; at Portland.

Exam. KEPHART. Well, could you send through to Portland trucks containing less than truckload shipments; I mean, do you have full truckloads of less than truckload shipments?

The WITNESS. Oh, yes; we do.

Exam. KEPHART. They could go through as well as single shipments of truckload quantities?

The WITNESS. That is correct; yes.

Chairman TERRIL. You don't contemplate any interchange at Medford on your proposed operation?

The WITNESS. No; I do not.

Exam. KEPHART. Do you ever have any trucks reaching Medford north-bound with half a load?

The WITNESS. Well, sometimes we do; yes. In other words, we have four or five combinations of trucks and trailers out of here daily, and the last one is generally the cleanup which is not all the time full to capacity.

Exam. KEPHART. The others, would you say, are usually full?

The WITNESS. That is correct.

Exam. KEPHART. Whether they are truckload shipments or a group of less than truckload shipments?

1237 The WITNESS. That is correct; yes. Very few of the shipments that we have north are full truckload shipments; it is practically 99 percent l. c. l.

Exam. KEPHART. Truckloads of l. c. l. shipments?

The WITNESS. That is correct; yes.

Board Member BROWN. One other question I would like to ask you, Mr. Gritsch. Have you made any study to determine whether or not you would be better off financially by having this application granted, or whether you would be better off by continuing the arrangement that you have at the present time provided there could be some speeding up of the interchange at Medford or Klamath Falls?

The WITNESS. Well, I would be better off if it was granted, if they give me the authority to operate through.

Board Member BROWN. You have taken into consideration the possible split of the available business?

The WITNESS. I have; yes.

Board Member BROWN. Do you believe there would be any induced traffic, any appreciable amount of induced traffic?

The WITNESS. Yes; there would.

Board Member BROWN. Where would that traffic come from?

The WITNESS. It would be movements from the north into this territory. At the present time I would say that the equipment is operating north and coming back about 20 percent loaded.

1238 Exam. KEPHART. Of your north-bound traffic have you already put in the record what proportion is delivered at points in Medford and north by excluding Portland and with the remainder delivered at Portland or Vancouver?

The WITNESS (no response).

Exam. KEPHART. In other words, what proportion is delivered at Oregon points other than Portland?

Mr. BEROL. I think that the prior witness has that information. I don't know whether he is still here. Yes. I think that he developed that information in his study and he can be recalled for that.

Exam. KEPHART. If it is already in the record there is no need to repeat it.

Mr. BEROL. It is not in the record; no.

I wonder if I may be permitted to ask this witness a question that was prompted by a Joint Board Member's question?

Chairman TERRIL. Certainly.

By Mr. BEROL:

Q. Would you elaborate, Mr. Gritsch, on why you expect there would be induced or additional traffic, particularly from the north that you are not getting at the present time?

A. Well, in our investigation in the field we find that there is thousands of pounds of merchandise available there to be shipped down. Another thing, with all the carriers——

Q. (Interrupting.) You said "available there." Avail-

1239 able particularly in what territory?

A. Portland and north of Portland and intermediate between Portland and Medford.

Q. Have you found that your connecting carrier has been substantially soliciting that type of traffic or not?

A. No; they haven't.

Q. Will you proceed with respect to your——

A. (Interrupting.) I will explain that this way: I think that the main cause is that Consolidated Freightways at the present time operate equipment from Portland south to Klamath Falls, Portland to Bend, Portland to the Coos Bay area, Roseburg and Medford, and naturally on intrastate business from Portland to Southern Oregon points they have quite a volume of freight moving in that direction.

If they were to solicit more business in Portland and fill the trucks up naturally they would have to send some of them back empty, so the freight I give them at Medford gives them a two-way balanced haul, but I can't balance mine that way.

Q. Now, is there any traffic, say, originating at points north of Portland that would be induced if you were operating to Portland that you are not getting at the present time?

A. There would be; yes.

Q. And how?

A. Well, at the present time there are several carriers

1240 that are operating from Portland north. For instance, to both Astoria, Seattle, Spokane and all those territories there which we have tried to work with, but the only carriers that I can turn it over to is either Consolidated Freight Lines or Pierce Auto Freight, and I find that if you give it to Consolidated, if they are operating on through, or wherever Pierce is operating through, if they get the shipment they take it as far as they go.

Mr. BEROL. I think that is all. Thank you.

Board Member BROWN. Mr. Gritsch, of the traffic that is moving at the present time, and assuming that both applications were granted, have you any opinion to express as to the future division of that business?

The WITNESS. Well, I think that if both applications were granted, I think I would still keep 60 or 75 per cent of the business that I am getting now.

Chairman TERRIL. Including both north- and south-bound traffic, the same percentage?

The WITNESS. Well, I am talking about north-bound and south-bound; why, I am sure that I could increase that a whole lot by operating through.

Board Member BROWN. You mean of the present traffic that is moving disregarding for the time being any induced traffic?

The WITNESS. Well, I don't know; I wouldn't say that,
1241 no, not on the south-bound traffic.

Board Member BROWN. Is your estimate of 65 per cent based on the total tonnage moving or just the north-bound?

The WITNESS. I said the north-bound.

Board Member BROWN. Have you any opinion to express on the south-bound movement?

The WITNESS. I am quite sure that we could almost balance the haul both ways.

Exam. KEPHART. What class of traffic do you figure on south-bound?

The WITNESS. That would be refrigerated commodities.

Exam. KEPHART. I believe that is your best bet.

The WITNESS. Yes.

Mr. BEROL. I don't think you yet either understood or answered the question of the Joint Board Member.

I think he was interested as to whether you could give an estimate of that present south-bound movement that you get at Medford, as to the present traffic, without paying any attention or regard to other traffic that you yourself have developed, as to what percentage of the present traffic you would——

The WITNESS (interrupting). Well, the only way I could answer that would be that there is naturally some of it that we would get if we was operating into Portland which is routed our
1242 way, but naturally the only way I could answer it is whichever one of these carriers are operating through get it first, why, they would be the ones to bring it through.

Chairman TERRIL. But you have estimated that you would be able to hold 65 per cent of the north-bound traffic that you now enjoy. Can you make any estimate as to what percentage of the south-bound movement that you feel you would be able to hold?

The WITNESS. Of the present——

Chairman TERRIL (interrupting). Assuming that the traffic remains the same as it does now that you and Consolidated are handling?

Board Member BROWN. Assuming further that it is traffic originating primarily by Consolidated Freight Lines?

Exam. KEPHART. They, of course, would immediately take it all over, would they not, since they originated it?

The WITNESS. That is correct, yes; I think they would if they originated it.

Exam. KEPHART. Where would you get your traffic, then?

The WITNESS. Additional traffic would be traffic that would—as I say, it is refrigerated traffic and traffic that is now being handled by some of the lines who lost their rights——

Board Member BROWN (interrupting). That would be traffic that you wouldn't be handling at the present time?

The WITNESS. No; we are not handling it at the present
1243 time.

Chairman TERRIL. You feel, then, that you would lose all of the present south-bound traffic that is originated by Consolidated?

The WITNESS. No; I wouldn't say all of it. I would say probably southbound they would probably get 65 per cent of it or 70.

Board Member BROWN. You think it would split just about the same as it would on north-bound?

The WITNESS. That is correct.

Exam. KEPHART. Except in the reverse direction?

The WITNESS. Yes; sir.

Exam. KEPHART. Do you think there is much available traffic in Oregon that you could get that is not now moving?

The WITNESS. Yes; there is.

Exam. KEPHART. In fact, that would largely be the merit of your case, wouldn't it?

The WITNESS. Yes; that is correct.

Exam. KEPHART. Inducing new traffic?

The WITNESS. As far as that goes I could answer that this way: That naturally when you are working with a connecting carrier, in lots of instances, why, the direction of the movement of certain commodities can be changed with the rate, and naturally when
you have to work with a connecting carrier, if they are
1244 hauling it in a certain territory now, why, it is pretty hard
to get a split rate, you know, a rate in the other direction, and that is what I have been up against also in the operation in Oregon.

Chairman TERRIL. Mr. Gritsch, the authorization for interchange of equipment has been in effect for approximately a year, has it not?

The WITNESS. That is correct; yes.

Chairman TERRIL. As an actual practice how frequently have you interchanged trailers with Consolidated on this north- and south-bound movement?

The WITNESS. Daily; we interchange one trailer load for Portland and one to Seattle daily.

Chairman TERRIL. And south-bound how many?

The WITNESS. The same amount.

Chairman TERRIL. The same ones are brought back to you the following day?

The WITNESS. That is correct.

Chairman TERRIL. Or in the regular course of operation?

The WITNESS. Yes; that is right.

Chairman TERRIL. Does that include the refrigerated equipment that you have been interchanging recently?

The WITNESS. Yes; that is correct.

Board Member BROWN. Do you interchange any equipment for the movement of dried fruit?

The WITNESS. Yes; if we have other trailers loaded
1245 through, why, we interchange with them.

Chairman TERRIL. Have there been more than the two a day interchanged?

The WITNESS. Yes; there has. There has been as high as, oh, I would say, three or four at different times.

Chairman BROWN. What proportion of the traffic is handled by the interchange of the equipment as compared to that where the lading is transferred?

The WITNESS. I would say there is about 25 per cent of it.

Board Member BROWN. 25 per cent?

The WITNESS. On a through and——

Board Member BROWN (interrupting). 75 per cent?

The WITNESS. No. Let's see. There would be about 40 per cent of it would be on the through and 50 per cent of it would be transferred.

Board Member BROWN. What is the average delay approximately on the traffic that is handled by the interchange of equipment, not necessarily the transfer of the lading?

The WITNESS. Well, that has a lot to do with which direction the shipment is moving.

Board Member BROWN. Let's take north-bound first.

The WITNESS. I would say the delay is from four to six hours because this truck that pulls this trailer, the trailer wouldn't
1246 go until the truck is loaded. As I say, they want to load the truck for Spokane, for instance, and they might pull that trailer to Portland and naturally they would have to hold that trailer there until they get their truck loaded.

Board Member BROWN. Well, is it true, then that the delay where the equipment is interchanged is substantially the same as where the lading is transferred?

The WITNESS. Well, it wouldn't be quite as long, no; because the lading on the interchange of freight that goes on the truck, it would still have to be transferred.

Board Member BROWN. Well, then, it would be about substantially the same, wouldn't it?

The WITNESS. Yes; I would say practically the same.

Chairman TERRIL. Has there been any interchange of motive equipment?

The WITNESS. No.

Chairman TERRIL. Cross-examine, gentlemen.

Cross-examination by Mr. ELLIS:

Q. Mr. Gritsch, when did you first give consideration to the thought of filing the application which is here pending for consideration by the Commission?

A. A short time before I filed it.

Q. And that was not until Consolidated Freightways had made their filing following discussions relating to a membership by your company in the Freightways Association?

A. That is correct; yes.

1247 Q. Now, with respect to the statements you have made about anticipated tonnage, I would like to ask you if it isn't a fact that at the present time Consolidated Freightways is operating deadhead the equipment southbound from Portland to Medford in rather substantial volume to take care of the traffic which you bring northbound to interchange with them at Medford?

A. No; I don't think they deadhead it from Portland to Medford very often.

Q. They are deadheading a substantial amount of equipment, however, to Medford to take your interchange freight, are they not?

A. Well, from maybe Klamath Falls or Roseburg.

Q. Marshfield?

A. I would say it might be from Marshfield.

Q. Now, do you know anything about the extent of the solicitation that Consolidated Freightways has carried on to attempt to balance its tonnage so that there would be an elimination of as much of that deadheading as possible?

A. I don't think that solicitation would help them any in that territory from the points they deadhead the equipment from.

Q. Why do you say that you don't think solicitation would help?

A. Well, there isn't—wouldn't be any—for instance, the equipment they deadhead from Klamath Falls to Medford, they have

no rights to haul freight from Klamath Falls to Medford, or whatever they would pick up in Klamath Falls—I don't
1248 know where—if it was going to Portland it would naturally go back the highway which is north of Klamath Falls.

Q. You don't know how much of that equipment is deadheaded from Coos Bay or from Portland or Eugene and points in the Willamette Valley?

A. No; offhand I couldn't say.

Q. You know, of course, that Consolidated has a very efficient solicitation force in the northwest, do you not?

A. Oh, I think they have; yes.

Q. And if they had been able to obtain sufficient freight to balance the movement between the northwest and Medford it is reasonable to assume they would have done so, is it not?

A. Well, I couldn't say that; no.

Q. Now, you have indicated in your belief that you can obtain an additional quantity of south-bound tonnage to help balance your north-bound tonnage which preponderates. What is the character of the tonnage that you believe can be obtained?

A. Well, all these refrigerated commodities, poultry, butter, cheese, eggs, and lots of l. c. l. freight too.

Q. Will that be new tonnage or will it be largely tonnage which you would expect to divert from other carriers?

A. There will be some new and some will be converted from other carriers, naturally.

Q. Would there be a substantial amount of that tonnage moving to points south of San Francisco Bay?

1249 A. Not very much I wouldn't say; no.

Q. Is it not true that the preponderance of tonnage originating at north coast points at the present time consists of commodities requiring refrigeration, most of which originates at Portland or north?

A. For the San Francisco territory?

Q. For any California territory?

A. No. I would say that there is lots of it intermediate of Portland and Medford.

Q. Doesn't the bulk of it, however, originate at Portland and north?

Board Member BROWN. You are talking about the tonnage that requires refrigeration?

Mr. ELLIS. Yes.

A. Well, I would say it is about fifty-fifty.

By Mr. ELLIS:

Q. The fresh and frozen fish seafoods from the north coast is a very important part of the tonnage that is moving to California destinations, is it not?

A. No; I wouldn't say that. There is quite a movement of frozen seafoods, but I would say there is a lot of other commodities too.

Q. And a very substantial part of that does move to Los Angeles or other territories south of San Francisco at the present time?

A. Well, I don't know how much goes to Los Angeles,
1250 but I know there is a lot of it comes to San Francisco.

Q. Don't you know, Mr. Gritsch, that the principal problem of motor carriers operating up and down the Pacific Coast has always been one of finding sufficient southbound tonnage from north coast points to the south to balance their tonnage and make a fair and profitable operating ratio?

Mr. BEROL. If you know, Mr. Gritsch.

A. Well, I don't know. I can answer it this way: I operated originally from up north to San Francisco and my hard time was getting freight from San Francisco north.

Mr. BEROL. By "up north to San Francisco" you mean Portland?

The WITNESS. That is right; yes.

By Mr. ELLIS:

Q. That was when you had your headquarters in the northwest and before you had formed any contacts in the California territory, however, was it not?

A. No; when I had the operation in California also.

Mr. JENNINGS. How long ago was that?

The WITNESS. Ten years ago.

By Mr. ELLIS:

Q. Your first motor carrier operations were in the northwest, however, were they not?

A. That is correct; yes.

Q. And that is when you were attempting to get your operation under way and while you were forming your contacts in the California area that that condition prevailed?

1251 A. Well, that is true.

Q. And over what period of years have you found that your north-bound tonnage has preponderated?

A. Six years.

Q. Now, what is your experience as to whether or not the consignee controls the routing on traffic to a very substantial degree? Is that true or not?

A. That is true; yes, sir.

Q. There has been a substantial amount of testimony in this record indicating that receivers of freight in the northwest did control the routing of their freight and indicated the carriers that were to haul it, and that conforms with your experience, I take it?

A. I wouldn't say that; no.

Q. Well, what would you say in that respect?

A. I would say most of the freight that is moving north-bound at the present time over our lines is routed out of San Francisco, shipped from San Francisco.

Q. Did you hear the testimony of the merchants and other consignees in the northwest concerning their control of the routing on shipments moving from San Francisco?

A. I heard some of them say so; yes.

Q. But your best judgment is that it is controlled about fifty-fifty by the consignor and consignee?

A. No; I would say still most of it is controlled—routed
1252 out of San Francisco.

Q. What percentage would you say?

A. 60 or 70 percent.

Q. Now, in the event of the granting of both your application and that of Consolidated Freightways would any of the tonnage shown on Exhibit 7 moving to points beyond Portland be handled from Portland to destination by Consolidated Freightways?

Mr. BEROL. May I have that question, please?

(The question referred to was read by the reporter as above recorded.)

A. It may be; yes.

By Mr. ELLIS:

Q. Have you any opinion—strike that.

Is substantially all of the tonnage shown on that exhibit moving to points beyond Portland now handled by Consolidated Freightways when interchanged with your line?

A. Yes; the biggest majority of it is.

Q. Now, you have indicated some difference of opinion with Consolidated Freightways on the handling of—on the loading or routing of shipments originating at points on your line and destined to points on the line of Consolidated, and as I understand it, it is your thought that you should load your freight more or less indiscriminately at the point of origin and get it on its way promptly, rather than take the time to load it in station order or by destination at your bay terminals. Is that substantially your statement on that point?

1253 A. It depends on where the freight goes. To intermediate points, naturally you want to load it in station order.

Q. Well, just what was the essential disagreement between yourself and Consolidated on that point?

A. Well, there wasn't really a disagreement. Consolidated, as I said, wants Spokane loaded in one piece of equipment and

probably Yakima and Wenatchee in another piece so when we get to Medford it will all be together for the checking and stuff.

Q. And your objection was that that type of loading delayed you in getting your trucks out of the bay terminal?

A. Oh, sure it does. Because we have got to hold the trucks, all the equipment until the last pick-ups are in and unloaded.

Q. And what was the reason advanced by Consolidated for their proposal in that respect for their plan? Was it a matter of more expeditious delivery of the freight to the consignee?

A. Well, I don't know what their idea was exactly; no.

Q. Well, now, no difficulty is encountered on that with respect to through freight moving from San Francisco to Portland, I take it, in truck or trailer load quantities? There was no disagreement on that?

A. No; there has not been any.

Q. As to freight destined to points north of Medford and intermediate between Medford and Portland I assume that under any plan of operation, whether conducted jointly by yourself and Consolidated, or by yourself alone, you would expect to
1254 require reloading at Medford in order to arrange your local freight in station order for delivery between Medford and Portland?

A. No; that would be loaded from San Francisco direct.

Q. And there would be no reloading under your proposed plan of operation at Medford?

A. The biggest majority would go through as—would be loaded direct from here. There would be some naturally at intermediate points, where it was picked up intermediate it would have to be transferred at Medford.

Q. And you would plan to load your equipment out of the bay terminals in station order for all freight destined to any point intermediate between the bay and Portland?

A. Well, it would be on different equipment; yes.

Q. What is the average time which is required in the loading of a truck and trailer load at San Francisco or Oakland terminals at the present time, average loading time?

A. Of a truck and trailer?

Q. A full truck and trailer; yes. Assuming you have the freight on the dock ready to load in truck and trailer load quantities, how long with your present facilities does it take to load?

A. Well, that is pretty hard to answer. If all the freight was there and the truck and trailer was there and you had half a dozen men, they would load it probably in 20 minutes, but the
1255 freight comes in, you see, we receive freight at the depot all day long and the pick-up trucks are picking up around

town, and they come in and unload four or five times in the afternoon.

Naturally the dock men are loading that all afternoon in this various equipment.

Q. Now, at the present time what is your method of coordinating your San Francisco traffic and your Oakland traffic, that is, traffic coming into the two terminals?

A. I have a terminal in San Francisco and also have a terminal in Oakland with pick-up trucks in both places.

Q. And there is no real coordination of the traffic, then, as between Oakland and San Francisco? They are treated and their service is operated just as though they were entirely separate?

Exam. KEPHART. Entirely separate cities?

Mr. ELLIS. Yes, sir.

Q. Well, it is picked up and put on—some of the equipment running out of San Francisco stops over there and picks up freight at Oakland every night on the way out.

By Mr. ELLIS:

Q. If you had a half load of freight originating at Oakland and going to Medford and another half load originating at San Francisco going to Medford on the say day, would you put them together or would you run them in separate units north?

A. I would put them together. I naturally wouldn't run two trucks from here to Medford, Oregon, each on a half load.

1256 Q. Assuming that you had some Spokane freight would you load it indiscriminately in your trucks, or would you attempt to segregate it and get it into a single truck before it left the bay area?

A. On Spokane freight, if we were operating, it would be on trailers.

Q. Would you get your San Francisco freight and your Oakland freight into the same trailer before it left the bay district?

A. I wouldn't say we would. It depends on the time that the freight—that there would be freight enough available for that piece of equipment to start out.

Q. The prompt leaving, the prompt dispatching of your trucks would probably be the controlling factor, then, I take it. You wouldn't hold a trailer to get a full load of Spokane freight, but would dispatch it and depend on coordinating that trailer load after it arrived at Medford, or, perhaps, even after it arrived at Portland?

A. No; I wouldn't hold it here if it was just for a little left over when there is another piece of equipment going right after it.

Q. Well, actually you haven't worked out any very definite plan for coordinating your Oakland and San Francisco tonnage and

segregating it as to destinations in the event your application is granted?

A. Spokane freight, naturally by my line would be trans-
1257 ferred at Portland anyway. It wouldn't make any difference if it was loaded on one piece of equipment here or two or three. I would operate it to give the best service to the shipping public.

Q. Now, at the present time you are responsible for the entire operation into the Medford terminal and handle this shuttle service between the state line and Medford, I take it?

A. I am responsible for it?

Q. Yes; you operate into Medford rather than to the state line?

A. That is correct; I operate into Medford and Klamath Falls, Oregon.

Q. And trailers that you interchange with Consolidated Freightways are interchanged at your Medford terminal?

A. That is correct; yes.

Q. How large a crew do you have available in your Medford terminal for the interchange and transfer of freight from one truck to another where that is necessitated?

A. I am not positive; I think there are seven men there transferring freight, unloading and transferring freight.

Q. Now, assuming that you have a full truck and trailer load of freight destined to points north of Portland which you bring into the Medford terminal you have sufficient men there at the present time, according to your testimony, to perform the
1258 actual physical transfer of that freight in about 20 minutes, did you say?

A. No; they couldn't unload it in 20 minutes.

Q. It would take longer, would it, to transfer the freight from one truck to another than it would from your terminal platform at San Francisco into your truck?

A. Well, it has got to be unloaded and checked, segregated and checked, which takes some time.

Q. Do you check your freight when you load a truck at Oakland?

A. We do; yes.

Q. Did you consider that in your 20-minute computation of loading a truck and trailer unit here?

A. Well, I think you misunderstood me. I didn't say we loaded a truck and trailer in 20 minutes. I said it could be done perhaps if the freight was there and we had enough men. We load them practically all day. The equipment is set on the terminal right up to the dock; as the freight comes in it is checked and loaded into the equipment.

Q. What is your best estimate of how long it would take you with a sufficient number of men to transfer a full truck and trailer load of freight at Medford?

A. I would say a full truck and trailer load of freight would probably take an hour and a half to unload, probably take an hour to check. It depends on how many shipments are on the truck and trailer. There may be ten, and there may be 200.

1259 Q. Now, how many men would you use in that operation?

A. Five or six we are using now.

Q. But you could load a truck and trailer at your bay terminal with six men in 20 minutes, if I understood your testimony a few minutes ago?

A. That is pretty hard to answer. It depends on what you load it with.

Q. Then, as I understand it, the maximum time which you would require to transfer a full truck and trailer load of freight under your present situation at Medford and to check it would normally be in the neighborhood of an hour and a half?

A. That is correct, for us to unload it and put it on the dock; I would say it would be an hour and a half. Or course, the other carrier checks it on their equipment and loads it again.

Q. Would that take approximately the same amount of time?

A. It might take a little longer.

Q. In the event you handled the operation through would there be any checking performed by your company at Medford on local freight destined to points between Medford and Portland?

A. Not if it was loaded on equipment that was going on through; no. That wouldn't stop at Medford at all.

Q. On freight that stops at Medford and is reloaded and loaded in station order there would be a recheck at Medford?

A. Well, naturally when we transfer freight or anything
1260 we recheck it, sure, to find out if it is there. I think every carrier does that.

Mr. BEROL. Is that freight going to be transferred at Medford that is going to points beyond?

The WITNESS. No; it isn't.

By Mr. ELLIS:

Q. Now, as to freight that is interchanged in trailer load lots at the present time what is your process of checking at Medford?

A. The freight that is unloaded on the through trailers?

Q. Yes.

A. At the present time?

Q. Yes.

A. It isn't checked.

Q. And if you were able to work out similar arrangements for interchange of freight destined to points intermediate between Medford and Portland and handled that in through trailers you could likewise avoid the time necessary to check at Medford?

A. Well, it wouldn't work very satisfactorily if we didn't—if we loaded all the freight through because we have some trouble now. We load the equipment here naturally for through and it isn't checked and signed for at Medford. You can't tell which carrier is short the merchandise if it checked off wrong at the other end.

Q. Well, as I understand it, you would make that check in
1261 any event at Medford if the freight were transferred?

A. It would be made; yes.

Q. Whether the operation was conducted by one company or by two, if the freight were transferred there would be a check made of the freight at Medford at the transfer point?

Mr. BEROL. I will object to the question on the ground it assumes facts not in evidence and directly contrary to the evidence. The witness has testified time and time again that as to traffic going beyond Medford there will be no interchange at Medford.

Exam. KEPHART. I think that is understood, isn't it? Truckload quantities move right along without interchange.

Mr. BEROL. Certainly that has been the witness' testimony at least three or four times.

Exam. KEPHART. He answered my question to that effect this morning.

Mr. ELLIS. As to truckload quantities. I don't think anyone has taken that position as to less than truckload quantities to be distributed at intermediate points beyond Medford.

Exam. KEPHART. He did state that full truckloads of less than truckload shipments would also move through. Would that be true even if some of those less than truckload shipments were distributed at intermediate points as far as Portland?

The WITNESS. That is true; yes.

1262 By Mr. ELLIS:

Q. Now, you have indicated a maximum unloading and loading time of approximately 3 hours at Medford where freight is interchanged with Consolidated. Can you tell us how, or can you account for the difference between that 3 hours interchange time and the time of 8 to 12 hours this record indicates is taken at that interchange at the present time?

Mr. BEROL. Just a minute.

May I have that question, please?

(The question referred to was read by the reporter as above recorded.)

Mr. BEROL. Now, just a minute.

I am going to object to that question on the ground that it is not fair and it assumes facts not in evidence, and it is entirely prejudicial.

Now, there may have been some testimony—one or two witnesses might have testified that there is a delay of 8 to 12 hours. Now, there certainly isn't enough in the record based upon the testimony of one witness to support a question based upon the premise that that is the general and the usual situation.

Furthermore, with respect to the actual time of delay, this witness has testified that the loading would normally take an hour and a half, that additional time would be required for checking, that likewise the other company would need an hour
1263 and a half or so for unloading, also time for checking, which certainly brings the present time or delay in excess of 3 hours.

Exam. KEPHART. It seems to me there are two questions involved there, first the delay due to all of this work that Mr. Berol has just mentioned if the equipment of both companies is present at the same time.

Mr. BEROL. Right.

Exam. KEPHART. But if the equipment of one company has not yet arrived and will not arrive for another five or six hours you have an additional factor entering in.

Mr. BEROL. That is right.

I have no objection to counsel developing all the facts there may be in this picture, but I do object to his, on cross-examination, using leading questions, which he is entitled to do, and in those leading questions putting facts into the mouth of the witness that are not facts at all and that are not consistent with this record.

I am asking counsel to be fair with this witness.

Exam. KEPHART. Mr. Ellis can you develop your question, then, to bring out the delay due to the fact that the equipment of one company is not there to meet the equipment of the other company, to what extent that may arise?

Mr. FARRENS. Let's get ourselves straight on this record.
1264 There was testimony offered directly by this applicant to the effect that the delay was 8 to 12 hours. Now, if that testimony is untrue and counsel desires to repudiate the testimony of that witness in that respect, I think he should be required to say so as a pre'quisite to making this objection.

Mr. BEROL. That was the testimony of one out of a hundred shipper witnesses that testified.

Mr. FARRENS. And you didn't disown it.

Exam. KEPHART. It seems to me you should discriminate there in the question between when equipment of both companies is there at the same time and when it is not.

Mr. ELLIS. I think I can break the question down, perhaps, to avoid the objection.

By Mr. ELLIS:

Q. Mr. Gritsch, what, in your opinion, is the present time, elapsed time, encountered at Medford in the interchange of north-bound freight between your company and Consolidated Freightways, giving, if you can, the minimum and maximum and what you believe to be the average interchange time at Medford?

A. I would say from 4 to 8 hours.

Exam. KEPHART. You mean when equipment——

The WITNESS (interrupting). That is the minimum and maximum.

Exam. KEPHART. Even when the equipment is not there
1265 the same time?

The WITNESS. Well, we don't vary very much in the time of getting in, if they come from the north or we come from the south. Naturally if they have got freight on that equipment coming from the north they have got to unload anyway, local freight there.

Exam. KEPHART. The difference, then, of arrival time is not great as a rule?

The WITNESS. It varies maybe two or three hours.

Mr. FARRENS. Will you pardon me at this point, Mr. Ellis?

Mr. ELLIS. Yes; sure.

By Mr. FARRENS:

What is the earliest arrival time in Medford of your schedules?

A. On our proposed schedule?

Q. On your present schedules?

A. That varies all the way from six o'clock in the morning to 2:30, 3 o'clock in the afternoon. It depends on what time the trucks depart from San Francisco.

Q. And what is the earliest departure time of the Consolidated Freightways schedules north-bound?

A. That I couldn't say. I don't know exactly what time they leave.

Q. Well, approximately what time do they leave, Mr. Gritsch?

You are sufficiently familiar with the operation to give
1266 that information, surely.

Mr. BEROL. Well, the witness stated he didn't know.

For counsel's information, Mr. Frank Gritsch, who is located at the Medford terminal of the Oregon-Nevada-California Fast Freight is present and available. If counsel wants to call him for the development of that point I have no objection.

By Mr. FARRENS:

Q. Haven't you an idea of the departure time of the schedules of your connecting carrier?

A. I think they leave all the way from six to nine, ten o'clock at night from Medford.

Q. So that freight may come in on your schedule around about six o'clock in the morning, and it may not, perhaps, go out until nine o'clock, the last schedule at nine o'clock on Consolidated at night, is that a fact?

A. Well, that might be true, I couldn't say.

Q. So that your maximum time or spread at the interchange, or delay at the interchange might be 15 hours?

A. Well, very rarely.

Mr. FARRENS. That is all.

By Mr. ELLIS:

Q. Now, Mr. Gritsch, will you account for the spread between the average time of interchange of loading and the actual delay in making the interchange at Medford?

A. (No response.)

Mr. BEROL. Do you understand the question Mr. Gritsch?

The WITNESS. No; I don't understand the question.

1267 Mr. BEROL. Neither do I.

Mr. ELLIS. I am merely giving the witness an opportunity to explain, and I think the record should be clarified on the question of the difference between a reasonable unloading and reloading time.

The WITNESS. Well, I can answer it this way: Maybe I can clear it up for you.

All operations in the transportation business—take Mr. Pierce, for instance, who operates for himself from Portland to Medford, naturally if there is a shipment that comes in there in the afternoon for Eugene there would be no object of his leaving an hour after the shipment got there if he could get it loaded and continue on to Eugene, because leaving on his schedule of the evening it would still get there before it could be delivered in the morning. Naturally that is why certain delays are. It is in the operation of the—physical operations, in other words.

By Mr. ELLIS:

Q. It is not because of your inability to transfer the freight and get it moving north, but because of your inability to get a profitable load from Medford north?

A. Well, I wouldn't say "profitable load." You would go that day whether you got a hundred pounds probably, or whether you got ten thousand pounds, but there is no object in leaving at two

o'clock in the afternoon for a shipment that is to be unloaded at Eugene because the stores will probably be closed
1268 there, and by leaving on schedule time at six o'clock, why, you will get there before it can be delivered anyway, but freight, I would say, beyond Portland or points like that, could probably leave earlier and make connections at the other points.

Q. Now, you interchange freight with California Motor Express?

A. I do.

Q. At San Francisco bay terminals?

A. I do.

Q. Can you tell us what the average delay is at your San Francisco terminals on freight received from California Motor Express?

A. Oh, California Motor Express gets in here around nine, ten o'clock in the morning. It is brought over to our depot around one o'clock, 1:30 and delivered to us. It is loaded as fast as it is ready for the equipment and whenever there is a load, why, it leaves for the north.

Q. It leaves San Francisco when?

A. Oh, any time between three and seven o'clock that day. It depends on how long it takes to transfer it. It is rebilled, checked, loaded.

Q. Have you made any effort to eliminate that delay in connection with Los Angeles traffic destined to points on your line?

A. You mean made any effort to eliminate that——

1269 Q. (Interrupting.) That extreme delay from 9 a. m. until——

A. (Interrupting.) I didn't say from 9 a. m. I said their truck gets in around 9 or 10. We don't get the freight until right after lunch, 1 o'clock.

Q. Their truck arrives from Los Angeles in San Francisco around 9 o'clock in the morning; you get the freight about 1:30?

A. That is right.

Q. You start it on its way north anywhere from 3 o'clock to 7 or 8 o'clock in the evening?

A. I would say that is an average; yes.

Q. How long has that condition existed?

A. How long has it?

Q. Yes.

A. Several years we have been interchanging freight with them.

Q. Have you made any effort to eliminate that long delay?

A. I don't think that is very long, four hours when you rebill it and check it and load it.

Q. But it arrives here at 9 o'clock in the morning, as I understand.

Mr. BEROL. Well, I will object to that on the ground that it is argumentative. It has been asked three times before.

The witness each time has answered he doesn't receive it until about 1 or 1:30 in the afternoon.

Mr. ELLIS. I will pass the question. I think it is clear
1270 enough now.

By Mr. ELLIS:

Q. Do you interchange freight at Sacramento with Diamond Feight Lines?

A. I do.

Q. How long does it take for you to interchange with them a load of freight originating at Stockton and going to points north of Sacramento?

A. I haven't got—I don't think I got any loads that I remember of.

Q. You are unable to say what time would be required to interchange freight with Diamond Freight Lines?

A. Well, I can't answer your question, Mr. Ellis, on that. I said before it depends on what it is. If a fellow goes back in and gets a load of supplies or a load of soap, or a load of beer, he would probably load it in half an hour, a whole truck and trailer. On l. c. l. freight it might take all day.

Naturally we get shipments in our terminals at various points; we receive them all the way from 9 o'clock in the morning until six, seven o'clock at night. We don't leave just the minute we get a shipment. If a fellow brings in a couple hundred pounds from Portland we don't throw it on the truck and start out; no operator does that.

Q. You haven't encountered any delays or difficulties on freight that you interchange with the Diamond Freight Lines?

A. No, I haven't; I haven't put in any complaints so far
1271 as that goes.

Q. Now, one of the objections which you made to the present situation had to do with the subject of rebilling. Isn't it a fact that you have avoided the rebilling difficulty on north-bound shipments by the issuance of a common bill which covers a shipment through from origin to destination?

A. Oh, freight that originates at San Francisco is billed on through billings, but other points are not.

Q. And the San Francisco freight, of course, is by far the greater bulk of the freight moving north?

A. That is correct; yes, sir.

Q. Now, as to the south-bound traffic, have you any arrangement for through billing?

A. No; I have not.

Q. Why haven't you worked out a similar through billing arrangement on south-bound movements?

A. There isn't enough, not very much freight I get south-bound. We can rebill it; we don't have very much delay in rebilling on that freight.

Q. In connection with your suggestion that you thought you could obtain an additional volume of south-bound traffic, as I understand it, you think that may be done by reason of your ability to name lower rates without the necessity of obtaining the concurrence of a connecting carrier?

1272 A. No; not necessarily. As I said, at the present time certain commodities move from Roseburg to Seattle, for instance, or some places like that because they have a commodity rate in. We have no commodity rates from Roseburg to San Franicsco.

Q. You were discussing at the time the south-bound traffic which you were going to use to balance your load factor, as I understand it.

A I think the rates would have to be changed on that.

Q. You think the rates should be lower than they are at the present time?

A. No; I don't think so; no. I am going to get practically a lot of it on the service we are going to give.

Q. Just what did you mean by your statement with respect to rates or rate reductions which might enable you to increase your traffic south-bound, or did I misunderstand you?

A. I said that the commodity rate factor would change the direction of the shipment moving.

Exam. KEPHART. The structural movement of traffic?

The WITNESS. That is correct. In other words, we have this situation:

From Portland south to southern Oregon they have low class rates and they have low commodity rates. If they want a shipment to move in a certain direction, naturally they put in a commodity rate and get it that way. If I am a connecting carrier there and I want to get it, I don't always get it.

1273 Q. That would involve or necessitate, if you were going to change the direction of traffic, the naming of a commodity rate which was less than your existing class rate, I take it?

A. In some instances; yes.

Q. Now, as an actual fact, isn't it true that the bulk of your traffic moving from north coast points, south-bound today moves on commodity rates which are already greatly depressed?

A. I wouldn't say they are greatly depressed.

Exam. KEPHART. In your exhibit 9, Mr. Gritsch, you show the volume of traffic interchanged at Medford and Klamath Falls during the first six months of 1940.

Can you estimate the proportions interchanged at those two places, the proportion at Klamath Falls, and the proportion at Medford?

The WITNESS. Oh, 90 per cent of it is Medford.

Exam. KEPHART. And 10 per cent is Klamath Falls approximately?

The WITNESS. I doubt if it is 10 per cent of it goes beyond Klamath Falls because the only freight beyond Klamath Falls would be Lakeview, Bend and——

Exam. KEPHART (interrupting). Well, I think you have substantially answered the question. 90 per cent is interchanged at Medford, the other 10 per cent either is destined to
1274 Klamath Falls or goes beyond.

The WITNESS. Well none of this is destined to Klamath Falls; this is all beyond Klamath Falls.

Exam. KEPHART. Yes; this is all beyond. You say about 10 percent is interchanged at Klamath Falls for points beyond?

The WITNESS. I would say that is about right; yes.

Chairman TERRIL. Were you through, Mr. Ellis?

Mr. ELLIS. I think that concludes my examination.

Chairman TERRIL. I have just one question that I would like to ask at this point.

Mr. Gritsch, do you at the present time interchange practically full truckloads with your southern California connection at San Francisco?

The WITNESS. No. The freight running into the southern California territory that we operate, we hook up with runs about an average of, oh, four or five ton a day.

Chairman TERRIL. From the south?

The WITNESS. That is right.

Chairman TERRIL. Now, you are proposing to render a service into Seattle and one into Spokane with connecting carriers at Portland, are you not?

The WITNESS. That is correct; yes.

Chairman TERRIL. Will that be in substantially truck or trailer load lots, that is, not one shipment perhaps, but
1275 of combined shipments?

The WITNESS. I think it will be trailer loads; yes.

Chairman TERRIL. Do you anticipate that there will be the same delay in the handling of those shipments at Portland that there is between yourself and Consolidated at the present time at Medford?

The WITNESS. No; I would say there wouldn't because I am going to interchange equipment with carriers both for Seattle and Spokane, interchange trailers.

Chairman TERRIL. Will that be a daily interchange of trailers with Seattle and Spokane carriers?

The WITNESS. I think it will; yes.

Chairman TERRIL. The necessity for rebilling and these other technical requirements that you have testified to will still exist, will they not?

The WITNESS. We are going to bill it through, have arrangements made for billing through.

Exam. KEPHART. The same as they do on railroad traffic?

The WITNESS. Yes.

Chairman TERRIL. Then, you do not believe there will be any appreciable delay in the transfer that will be incident at Portland for Seattle and Spokane?

The WITNESS. There will not.

Mr. BEROL. I wonder if I could develop that a point further? May I?

Chairman TERRIL. Yes, sir.

1276 Mr. BEROL. Now, is that in any way due to the fact that the connecting carriers normally leave Portland at night?

The WITNESS. That is correct; yes.

Mr. BEROL. With the design of making early morning deliveries in Seattle and Spokane?

The WITNESS. That is correct; yes.

Mr. BEROL. Now, under your time of departure in the evening from San Francisco is it your plan to arrive in Portland in time to make those night connections?

The WITNESS. It is; yes.

Mr. BEROL. Now, is part of the difficulty that has been encountered at Medford at the present time due to the fact that you and Consolidated both arrive in the morning, and that the normal truck departure is a night departure rather than a noonday or middle of the day departure?

The WITNESS. I would say that is correct; yes.

Mr. BEROL. And that will be encountered because you will arrive in Portland in time for the night departure which is a normal truck departure?

The WITNESS. That is correct; yes.

Mr. BEROL. Thank you.

Chairman TERRIL. You testified, however, did you not, that your minimum delay at Medford was four hours, isn't that correct?

The WITNESS. At the present time now. I would say that——

1277 Chairman TERRIL (interrupting). You testified 4 to 8 hours was your——

The WITNESS (interrupting). I would say that is about an average, that is my understanding.

Exam. KEPHART. That is where all the traffic is interchanged with another truck?

The WITNESS. That is on north-bound. I will say this: On shipments coming south-bound I know there is a delay of 8 to 12 hours becamse we split deliveries, run them in three divisions north-bound. The driver that leaves Mt. Shasta drives to Medford, waits until the trucks unload, drives back to Mt. Shasta and they are always back to their home terminal inside of 12 hours, 12 to 13, 14 hours at the most.

Chairman TERRIL. I was not so much concerned with your delay at Medford at the present time, as I was in your anticipated service from Portland to points north, as to what delay was going to be occasioned there as to your proposed service. Do you think that the delay in Portland would be as much as four hours under your proposed operation?

The WITNESS. That is the interchanging of freight with other carriers?

Chairman TERRILL. Well, all the elapsed time between the arrival of your vehicle in Portland and its moving out of Portland by the connecting carrier?

The WITNESS. Of course, it depends a whole lot on the
1278 tonnage.

Chairman TERRIL. I am asking you as to your view in the matter.

The WITNESS. I would say it would take probably from one to four hours. It depends on the volume of the tonnage and what there would be to transfer.

Chairman TERRIL. I haven't anything further at this time.

We will stand adjourned until two o'clock.

(Whereupon, at 12:30 p. m. adjourned until 2:00 p. m.)

AFTERNOON SESSION—2:00 P. M.

Chairman TERRIL. I have one announcement to make.

The Board has an intention of adjourning this evening as near 4:30 as possible. You gentlemen can govern yourselves accordingly.

Now, Mr. Farrens, you may proceed.

J. A. GRITSCH resumed the stand and testified further as follows:

Cross-examination (resumed) by Mr. FARRENS:

Q. Mr. Gritsch, this morning you gave us the times of arrival and departure of schedules handling the north-bound business. I

wish you would supplement that information by giving us the times of arrival and departure at Medford of the schedules handling the south-bound business.

1279 A. The present?

Q. Yes, sir.

A. From 2 to 7 o'clock in the afternoon.

Q. Now, what is that? Is that your——

A. (Interrupting.) Now, I will correct myself on that. Between 12 and 6 in the afternoon.

Q. Now, in other words, between noon, 12 o'clock noon and 6 o'clock at night are the time of departures of your south-bound schedules from Medford?

A. That is correct.

Q. And as nearly as you can tell us let us know what the times of arrival at Medford of the south-bound schedules of Consolidated are?

A. They vary from 7 in the morning until 11:30.

Q. In the morning?

A. In the morning.

Q. Now, when the Consolidated schedules come south from Portland are the ladings arranged with relation to the destinations, or do they come down in accordance with loading which is controlled by the time of offering at Portland?

A. I would say it is controlled by the time of the loading in Portland.

Q. So that their first schedule will carry, regardless of destination, the first offerings of freight at Portland and the last schedules will carry, regardless of destination, the last

1280 offerings of freight at Portland, generally speaking?

A. I would say that is correct generally speaking.

Q. Now, when your schedules depart from Medford southbound, do you load them with relation to the destination points to be served?

A. Yes, the first schedule that leaves there takes the local freight as far as Dunsmuir or Redding.

Q. And the last schedule that leaves carries almost wholly through freight to San Francisco or points south?

A. That is correct; yes.

Q. Then it could very well happen, could it not, that through freight would come in in the morning at 7 o'clock at Medford which was destined to San Francisco which wouldn't get out until possibly your last schedule at night out?

A. No. If it come on the first schedule into Portland it would leave on the first schedule leaving south, the 12 o'clock schedule, that is to intermediate points.

Q. I am talking about San Francisco freight, destined to San Francisco?

A. It might be that it would be on the last schedule, that is correct.

Q. Yes; so that there could be a spread from 7 a. m. until 6 p. m. in the handling of through freight from Portland to San Francisco at the interchange point in Medford?

A. In some instances that would be correct; yes.

1281 Q. Now, when you handle freight north-bound do you take it as it is offered here so that your first schedule north-bound is carrying the earliest freight offered, or do you segregate it here as to ultimate destinations in the Pacific Northwest?

A. We segregate it here.

Q. Is all freight so segregated or is it only that which occurs during the earlier half or two-thirds of the day that is segregated?

A. Practically all of it is segregated at the present time.

Q. Now, your last schedule leaves here at about what time?

A. The last one?

Q. Yes.

A. An average of about 7:30 to 8 o'clock at night.

Q. The first one is about what time?

A. Around 4 o'clock in the afternoon.

Q. Now, the reason why you delay your last schedule to as late as 7:30 or 8 p. m. is in order to handle the last offerings, isn't it?

A. That is correct; yes.

Q. And when do you close your freight terminal at night?

A. Generally between 8 and 9 o'clock.

Q. So that this last schedule is handling offerings that come in right up to the last minute?

A. That is correct; yes, sir.

1282 Q. Now, then, your last schedule and possibly some of the schedules departing shortly before your last schedule are carrying then, freight that is miscellaneous with respect to destination; that is true, isn't it?

A. Yes; that is correct.

Q. Yes, sir. Now wouldn't you agree with me, Mr. Gritsch, that in view of the arrival and departure times of the schedules at Medford, that delay at Medford is not controlled in any substantial sense at all by time necessitated for unloading, checking and reloading, but that it is in fact controlled by the fact that the Consolidated schedules south-bound are schedules leaving in the evening and arriving in the morning at Medford and that your schedules south-bound are schedules which leave in the afternoon or evening up to six o'clock making another night run to San Francisco?

A. That is correct; yes.

Q. In other words, you are both making night runs in both directions?

A. Practically; yes.

Q. And the daytime in Medford is the period of the delay at the interchange in Medford and that delay is controlled by the fact that you are both making night runs instead of picking it up at the earliest possible moment and going south or north, as the case might be, from Medford?

A. Well, I would say that is more so north-bound, yes; but south-bound we try to get out of Medford as quick as we can
1283 because it is a longer run between Medford and San Francisco.

Q. You would agree with me that under your present service the purpose of the Consolidated at Portland with respect to south-bound freight is to collect all the freight that is offered on that day and then carry it overnight to Medford, and that you purpose in leaving Medford in the latter part of the afternoon or early evening is to enable you to get morning delivery in San Francisco?

A. That is correct; yes.

Q. And that under the set-up that you now have with respect to such south-bound traffic there really isn't anything much to be gained, at least with respect to freight destined to San Francisco bay points, in hastening the interchange at Medford because you are going to get here early enough to make as early a morning delivery as possible in any event, aren't you?

A. That is correct; yes.

Q. And when we reverse the picture and look at the north-bound traffic we have precisely the same situation, namely, that you are holding up your freight and holding back your schedules for a night run to Medford, and that they in turn are planning on the night run from Medford to Portland so that they can make an early morning delivery, and that for that reason there is, under the present set-up, no incentive to load that freight as fast as
1284 possible, check it as fast as possible, reload it and get right out of Medford?

A. Well, I don't—I couldn't exactly say that because it takes, of course, some time to deliver the freight there. I don't know if they are doing it just as fast as they could, or if they could do it any faster.

Exam. KEPHART. You mean by that, Mr. Farrens, if they left almost immediately they would arrive at Portland at night and have to hold it over to the next morning?

By Mr. FARRENS:

Q. That is correct, isn't it, Mr. Gritsch?

A. If they get there at Midnight it wouldn't do any good.

Q. So there isn't any incentive to make the unloading, checking, and reloading in a minimum time and get the truck right out of Medford in either direction?

A. I would say not for Portland proper.

Chairman TERRIL. May I interrupt for one question?

Is there any special effort being made at the present time between you and Consolidated to load freight for more expedited service, that is, destined to points beyond Portland, Seattle, and Spokane for instance?

Exam. KEPHART. Or do they follow the same schedule?

The WITNESS. No; I wouldn't say they follow the same schedule.

Chairman TERRIL. You see what I mean, don't you, Mr. Gritsch?

The WITNESS. Yes; I do.

1285 Chairman TERRIL. Is there an effort made to get those Seattle and Spokane shipments, for instance, out ahead of the ones that would be going into Portland?

The WITNESS. In lots of instances there are; yes.

Exam. KEPHART. So that that night, instead of waiting at Portland, you might keep on going and arrive at Seattle in the morning as well as at Portland?

The WITNESS. That could be done; yes.

Chairman TERRIL. Well, is it being done at the present time is what I want to know?

The WITNESS. In some instances it is.

By Mr. FARRENS:

Q. Now, following out what I understand to be the line of questioning to be asked by the Board, which is the next thing I had in mind, your earliest arrivals in Medford, as I remember, you said were around 6 o'clock in the morning? That is correct?

A. That is correct: yes.

Q. And if you had on that early morning arrival freight destined to Grants Pass and that freight could be unloaded and checked and reloaded in three or four hours, then, instead of Consolidated waiting until evening to run north with that freight, it would be actually possible for it to start to Medford around about 10 o'clock in the morning, wouldn't it, or start to Grants Pass from Medford about 10 o'clock in the morning?

1286 A. By Consolidated?

Q. Yes.

A. Well——

Q. (Interrupting.) I understand, of course, that means they might not have a truckload; it might not be economical, but it would be possible, wouldn't it?

A. Oh, that is true; yes.

Q. And the same thing would be true in your case if you wanted to make deliveries of freight at, we will say, Dunsmuir or points in the very northernmost part of California, you would be able to get out of there, brought down on their earliest schedules, you would be able to get out of there much earlier than 12 o'clock, wouldn't you?

A. No; I wouldn't say we would be able to get out of there much earlier, before 12.

Exam. KEPHART. Even if you didn't get out before 12 that would give you time to get down to Dunsmuir in the afternoon, wouldn't it?

The WITNESS. Get to Dunsmuir about closing time.

Exam. KEPHART. You would get to Dunsmuir about closing time, between four and five o'clock?

The WITNESS. Yes.

By Mr. FARRENS:

Q. Now, the reason that that sort of service is not given to the shippers located in the towns north of Medford as far as
1287 Roseburg, we will say, or south of Medford as for as Dunsmuir, I assume, is because it would involve the moving of trucks which were not fully loaded; is that correct?

A. Well, the movement of freight between Portland and northern California points naturally is in small shipments; it isn't truckloads.

Q. Then, am I correct in the assumption that the reason that isn't done is because it would not be an economical service because it would involve moving a partially loaded vehicle which, if held a little longer to handle freight through to San Francisco Bay points, could be fully loaded?

A. That is true; yes.

Q. And, of course, the same thing is true in the reverse direction, north-bound, isn't it? That is the reason you don't go to Grants Pass or Roseburg immediately after the necessary loading and unloading and checking time is being consumed is because it would not be economical to do that with a partially loaded truck?

A. I suppose that is the reason, yes; because I connect with both Consolidated and Pierce there, and they both leave Medford the same time north-bound.

Q. Now, then, we are in agreement, aren't we, Mr. Gritsch, that there is no substantial relation at all between the time necessarily consumed in loading, unloading, and checking and the actual
1288 times of delay involved in the interchange at Medford, but it is in fact controlled by the other things which we have just been discussing?

A. Well, it takes time to check the freight and transfer; yes.

Q. It takes some time, but we have found here a delay far in excess of that time and the truth of the matter is, as we have indicated, that is because of the type of schedules and the night hauls and the method of operation rather than the fact that all that time is necessary for loading and unloading and checking; isn't that true?

A. Well, I will say this: I will admit that I think it could be bettered a little bit, but not enough to give the service we could on a through operation.

Q. As long as you are transferring lading in any substantial degree?

A. That is correct; yes.

Q. Yes. Now, the weight restrictions, length and width restrictions, and so forth in the State of California and the State of Washington are the same, aren't they?

A. That is correct; yes.

Q. But in Oregon you would have a lesser permissible gross weight?

A. That is correct; yes.

Q. Now, the problems which arise due to the difference in the weight restrictions in Oregon and California will be identical regardless of whether the operation is a joint line operation
1289 or a through line operation, will they not?

A. Yes; they wouldn't change the weight restrictions any.

Mr. BEROL. I don't think that was the question, though, Mr. Gritsch. I don't think you understood counsel's question.

The WITNESS. Will you read the question over again?

(The question referred to was read by the reporter as above recorded.)

Mr. BEROL. In other words, counsel is talking about the problems, not about the restrictions.

By Mr. FARRENS:

Q. Yes; the operating problems are the same?

A. No; they would be different as far—I misunderstood you—I thought you said that the laws would be the same whether they run through or——

Q. (Interrupting.) But you say the operating problems created by that difference in the laws will be different in the case of a joint line operation than in the case of a through line operation. Will you explain that answer?

A. Well, as I said before, Consolidated and practically all the carriers, I think, in Oregon, operate practically trucks and trailers of a smaller size than we do in California, so the equipment that operates from the Oregon State Line north into Portland will be tractors and semitrailers instead of trucks and trailers.

Q. Do I understand you correctly? If you were permitted to have a through operation you would run semitrailers?

1290 A. From the Oregon-California State Line to Portland.

Q. Whereas, presently Consolidated is running a tractor which is a loaded truck?

A. A truck, and they pull a trailer.

Q. And a trailer. Well, now, let's turn that picture around. What would an operator be able to do in this same particular if he operates from the Oregon-California State Line to San Francisco? Would he operate the same smaller equipment that he would operate in Oregon clear through to San Francisco?

A. It could be done, but I don't think it would be as profitable as operating the other way.

Q. Well, then, in your opinion, the economic method of operation, whether it is a through joint-line haul or whether it is a single-line haul, would be to use semitrailer equipment all the way through from San Francisco Bay to Portland?

A. No; no, to use a six-wheel truck and a six-wheel trailer from San Francisco to the Oregon-California State Line; then, the trailer is converted into a semitrailer at the Oregon State Line and goes on through to Portland.

Q. And, in your opinion, that would be the most economic method of operation regardless of whether it were a joint-line operation or a single-line operation?

A. It would with the joint line. I couldn't say more profitable for a single line because whichever equipment you could haul the most tonnage on would be the most profitable operation;

1291 that is true. You have got to take into consideration the miles traveled and, in other words, the operating conditions on it.

Q. Well, you plan to operate a truck and trailer to the State Line from San Francisco, don't you?

A. That is correct; yes.

Q. Then, you plan to operate that trailer and the power unit from the line to Portland?

A. That is correct; yes.

Q. Is that, in your opinion, the most economical method of meeting that difference in weight restrictions?

A. It would be from our operation if we was operating through; yes.

Q. All right. Then, Mr. Gritsch, why would not the same situation prevail with respect to a two-line service making an interchange at Medford?

Mr. BEROL. Do you understand, Mr. Gritsch, what counsel means by a one line and two-line operation?

The WITNESS. I do; yes.

Mr. BEROL. You understand by a one line he means the through operation; by two line he means a connection?

The WITNESS. Yes; that is right.

Well, if you use a truck, as I said before, the trailers are loaded here with a net capacity of 11 ton. If you pull it with the
1292 truck from Medford to Portland you would have to take off approximately 3½ ton to put on a truck. You are only allowed 54,000 gross in the State of Oregon. In other words, you would have to transfer part of that lading from the trailer regardless if it was loaded through, or else pull the loaded trailer with an empty truck, which is not economical to do.

By Mr. FARRENS:

Q. Now, you were giving me your reason why you think from the state line north to Portland it is more economical to operate a power unit than a trailer, as you propose to do, but what I am trying to find out is if that is the enocomical method of meeting that difference in weight restrictions in the case of a single line, why it is not also the most economical method of meeting it in the case of a two-line haul?

A. Of course, I can't very well answer that for the simple reason that Consolidated have—or my connecting carriers—either Consolidated or Pierce have their own terminal facilities there. They have employees there to do the transferring and take care of the other freight they haul in there. Maybe it is more economical for them to transfer, but on the through operation I would eliminate approximately half of my cost in Medford at the present time if I was to run on through.

Q. Mr. Gritsch, if you were given the management of the present joint through operation between San Francisco Bay and Portland what would you do about the matter of meeting this
1293 weight restriction?

A. I would use tractors and semitrailers from the Oregon State Line through.

Exam. KEPHART. What expense would you eliminate if you were operating the joint arrangement through as Mr. Farrens just asked about?

The WITNESS. The cost of the transfer at Medford would be, I would say, about fifteen or sixteen hundred dollars a month.

Exam. KEPHART. But that cost wouldn't be necessary if the equipment went on through?

The WITNESS. It would not; no.

By Mr. FARRENS:

Q. Now, in addition to eliminating that cost, Mr. Gritsch, that plan would also eliminate all of the delay due to loading, unloading, and checking, wouldn't it? With respect to through freight?

A. That is correct; yes.

Chairman TERRIL. Mr. Gritsch, did your answer in regard to the management of the two lines Mr. Farrens put to you a moment ago take into consideration the type of equipment that Consolidated now operates and with which you have to connect and make this interchange?

The WITNESS. No; you couldn't do it with the type of equipment that they have at the present time.

By Mr. FARRENS:

1294 Q. It would mean a substitution of equipment on the lines of Consolidated?

A. That is correct.

Q. But that substitution would save the unloading of three tons at least off the tractor, wouldn't it, off the truck, I should say?

A. North-bound it would; yes.

Q. Now, under your supposed management we have just been discussing, Mr. Gritsch, if you interchanged equipment it would be possible to so manage that line as to accomplish all of the results which both you and Consolidated have suggested can be accomplished by a single line through operation, wouldn't it, with the exception of perhaps through billing, c. o. d. collections and the handling of shorts and overs?

Mr. BEROL. To which I will object on the ground it is incompetent, irrelevant, and immaterial and will cast no light that will assist this record irrespective as to what the answer may be.

I think the record is conclusive, that under the present ownership of the two lines the problem of joint management or management by this witness is impossible.

Chairman TERRIL. I believe the Board is interested in having an answer to the question if the witness can answer it.

The WITNESS. I guess I will have to have that question.

(The question referred to was read by the reporter as 1295 above recorded.)

The WITNESS. Well, I will answer it this way: I don't think I could eliminate it at all. If I could, why, I think I would be——

By Mr. FARRENS:

Q. (Interrupting.) Now, what besides the shorts and overs and the question of billing and the handling of c. o. d.'s couldn't be encompassed and taken care of?

A. Well, if I was manager, I would admit this: With the way I would manage it from Medford north to Portland it would be more profitable to consolidate it from Medford to Portland.

Q. How about the service to the shipper? That is what we are interested in. Wouldn't you give just as good service to the

shipper with the three exceptions that I have mentioned as have been promised by yourself and Consolidated in the event your extension is granted?

A. No, I don't think you could.

Q. Now, in what respect, Mr. Gritsch, do you think it would be impossible and why?

A. Well, I think that one company could give better service, serve the public better than two carriers regardless of whether it was Consolidated Freight Lines or Pierce Auto Freight or Southern Pacific or Pacific Truck Express, or who it might be.

Q. And why, and in what particulars?

1296 A. Because regardless of what may arise in a complaint or something it would still have to be thrashed out between the two companies.

Q. That is shorts and overs; I have eliminated that; I have excepted that. Now, outside of shorts and overs, c. o. d. collections, possible through billing, outside of those three items——

Chairman TERRIL (interrupting). And damage claims. That is included in shorts and overs.

Mr. FARRENS. Yes.

By Mr. FARRENS:

Q. Outside of those three items wherein would your service, as proposed by you, which we are assuming would be under your management handled in the manner which you have outlined, which is identical with the physical operation which you propose in support of your operation, wherein would it be lacking in the service to the shipper as compared with your single line operation?

Mr. BEROL. May I ask counsel a question for the purpose of clarification?

I have taken it that counsel's question assumes or presumes that such management would be equal to absolute and complete control.

Mr. FARRENS. In respect to all these things we have been discussing.

Mr. BEROL. And would be tantamount to a proposition as

1297 though one carrier was operating the complete service?

Mr. FARRENS. In the particulars which we have been discussing which is the method of handling equipment and of handling the shipment. I am not talking about the financial end of the thing, the borrowing of money or anything of that sort, but simply the physical operation.

Mr. BEROL. That is what I have in mind. As to that it would be tantamount to complete control as though one carrier was operating the complete service?

Mr. FARRENS. To the extent it would provide the service and Mr. Gritsch says it would provide if he were managing the line.

Mr. BEROL. I would be willing to stipulate if you give this witness that kind of control that he would provide that kind of service he proposes.

By Mr. FARRENS:

Q. If that satisfies you, Mr. Gritsch, the stipulation your counsel suggests, I am willing to accept it.

Does it satisfy you?

A. Yes.

Q. You don't have to feel like you have got to be satisfied with what Mike tells you. If you have any different views in any respect now is your time to tell us.

Chairman TERRIL. He isn't always right, Mr. Gritsch.

Mr. BEROL. I don't want you to teach my witness bad habits.

By Mr. FARRENS:

1298 Q. Now you testified in Portland, according to my notes, that you will interchange, if this extension is granted, equipment at Portland with the northern carriers with whom you connect. My memory is right on that, isn't it?

A. That is correct; yes.

Q. And you have exactly the same weight problem or weight differential problem to meet between Portland and San Francisco, or between Portland and Seattle that you have between San Francisco and Medford, don't you?

A. That is correct; yes.

Q. And how do you plan to handle that interchange at Portland with relation to the differential between permissible weights in Washington and permissible weights in Oregon?

A. The weight restrictions are the same in Washington as they are in California.

Q. That is right.

A. In other words, if a piece of through equipment was loaded through to Seattle or Spokane it would be converted into a six-wheel trailer again at Portland and interchanged with the carrier that runs through.

Mr. BEROL. By the use of a truck by that carrier?

The WITNESS. Yes. That is why, instead of taking off 3⅓ ton off the trailer in Medford, cutting it down to the Oregon restrictions and then also putting on 1½ ton more at Portland for

1299 Seattle, we would eliminate that by me taking a tractor and pulling it through from Medford to Portland.

By Mr. FARRENS:

Q. Now, Mr. Gritsch, Consolidated is operating from Portland to Seattle and from Portland to Spokane; that is true, isn't it?

A. That is correct.

Q. And that same economical method of handling, which you just now suggested with respect to equipment operating between those points, is available to them, isn't it?

A. It is; yes.

Q. And isn't that precisely what they would do in handling through traffic?

A. I don't know; I couldn't answer that.

Q. You don't know whether they would do that or not?

A. No; I don't know.

Mr. BEROL. That is what we are complaining about. We haven't been able teach them sense.

By Mr. FARRENS:

Q. Now, in this Exhibit No. 10, Mr. James says to you, among other things: "We would work out ways of easily interchanging equipment as between companies. There is no great difficulty involved here?"

Mr. BEROL. Are you familiar with Exhibit No. 10, Mr. Gritsch?

The WITNESS. I am; yes.

By Mr. FARRENS:

Q. Do you agree with Mr. James' statement in those two sentences?

1300 A. No; I do not.

Q. And why not, Mr. Gritsch?

A. Because, as I stated before, my methods of operation are different than his.

Q. Well, now, if Mr. James would agree with the methods of operation which you have just outlined for me, then, it would be true that there would be no great difficulty involved, isn't that so?

A. If he would agree with my method?

Q. The method you just outlined to me, there would be no difficulty involved, would there?

A. Not as far as I am concerned, but I can't answer for him. I might answer it, just like two fellows being in business and one handling all the money and the other guy doing the work, why, I would sooner do the handling of the money.

Q. Now, you are not proposing to operate from Medford to Portland faster than the Consolidated now operates, are you?

A. I am figuring on operating between Medford and Portland faster than they operate?

Q. Yes. You are not going to run a faster schedule, running time between those two points than they operate?

A. I couldn't answer that; I don't know how fast they go.

Q. Mr. Gritsch, do you remember that the Pacific Truck Express at one time endeavored to operate a through schedule between San Francisco Bay and Portland on approximately
1301 the same scheduled time that you are proposing here?

A. That is correct; yes.

Q. And do you also remember that after giving it a trial they abandoned it and reverted to their present operating schedules?

A. Yes, they did; but the reason, I think, they did that, they left at 2 o'clock in the afternoon from San Francisco. Practically all the freight that is shipped out of San Francisco, or that is, I would say, 75 percent of the orders, come in my mail. The train from the north carrying the mail doesn't get into Oakland until around about 11 or 11:30 in the morning. It is impossible to get the orders up and get them picked up before 2, so when they left at 2 o'clock all the freight they picked up after 2 o'clock would have to wait until the next day so it was delayed here in San Francisco on the dock instead of being en route at night.

Q. But, Mr. Gritsch, that problem they could have completely met by simply dropping their schedule back from 2 to 6 or 7 or 8 at night on departure here?

A. Which they have done.

Q. And dropping their schedule of arrival time in Portland back accordingly.

A. That is right; that is what they have done.

Q. Now, as a matter of fact, they were operating a much faster schedule from the standpoint of running time at that time, were they not, than they now are?

1302 A. I don't know what their running time is now.

Q. And isn't it a fact that they terminated that effort because of the wear and tear on equipment and because of operating difficulties that they run into, or do you know?

A. I don't know why they eliminated it; I couldn't say.

Q. Yesterday, Mr. Gritsch, there was on the stand a heavy-machinery shipper from Stockton who said that he had been promised that he could ship from Stockton at five o'clock and have his freight taken from Sacramento on your schedule leaving about 6:30 p. m. Is that going to be feasible?

A. 6:30 or 7; yes, that is correct.

Q. You wouldn't be figuring on a very heavy pick-up, then, of south-bound business, or of north-bound business coming from Stockton, I should say?

A. It might be; we are handling it at the present time now to the points we serve.

Q. Yes; but you said there was not very much of it?

A. No; there is quite a bit.

Q. Well, what is the running time from Stockton to Sacramento, approximately, of your truck schedule?

A. I would say about an hour and a half.

Q. Well, then, that wouldn't leave any time for loading at Sacramento or none for interchange with yourself at Sacramento because there is only an hour and a half between 5 and 6:30?

A. We don't leave Sacramento at 6:30.

1303 Q. Oh, I was misinformed as to the time of departure of schedule?

A. Oh, no; we wouldn't have to leave at 6:30; we could still make the schedule in the north.

Q. What time do you plan on leaving stockton; I mean Sacramento?

A. 7 o'clock or 7:30.

Q. Then, if you left at 7 o'clock and this shipper was to offer his shipment to your connecting carrier at Stockton at 5 o'clock, and it is an hour and a half in running time between Stockton and Sacramento, that would leave only half an hour for loading at Stockton and transfer to you at Sacramento. Do you think that is feasible?

A. In some instances it wouldn't be enough, but most of the time I would say half an hour would be enough.

Q. Having in mind what this shipper said about the extreme heavy nature of his machinery and the necessity for heavy equipment to load it and unload it, do you think it would be enough?

A. Some instances it wouldn't; most of the time I would say it would.

Q. Now, on this question of speeding up your service between San Francisco Bay and Portland, if in practice you found that that was feasible, it would also be feasible for any other through operator, wouldn't it, who is competently managed?

1304 A. That is correct; yes.

Q. Can you conceive of any reason why, if the public demand is as great as you are here contending it is for that speeding up of the service, the existing through operators such as Pierce and Pacific Truck Express have not already met that demand having the opportunity to do so?

A. Oh, I think either one of them could do it. I don't know whether they are or not, but it could be done.

Q. All right, Mr. Gritsch. Now, if you do do it, wouldn't that force your competitors such as Pierce Auto Freight Lines and Pacific Truck Express to meet your scheduled times provided public convenience and necessity really demands that speed-up in schedule?

Mr. BEROL. Objected to as calling for a conclusion and opinion of the witness. The witness doesn't know what his competitors may or may not do.

Mr. FARRENS. I think this witness is about as expert a man on the subject as there is on this part of the coast.

Chairman TERRELL. Can you answer the question, Mr. Gritsch?

The WITNESS. Well, yes; I can.

According to that, why, I think that Pierce and Pacific Truck Express need a little competition up there to speed up their services. I think it would be a big benefit to the shipping public.

By Mr. FARRENS:

Q. Still you haven't answered my question.

1305 You made a nice argument on the subject.

Don't you think, as a matter of fact, your competitors would be compelled to speed up their service and that they actually would do so?

A. I think there would be a lot of improvement in their through service.

Q. And if they didn't equalize the competition by speeding up their schedules you would all be back right where you are now, wouldn't you, with respect to the competitive opportunity to get business?

A. If I didn't get the certificate through; yes.

Q. Well, even if you do get the certificate and they met your time schedules, being through operators the same as you would then be, the competitive situation would then be equalized and likewise your ability to get business on that score would be equalized, wouldn't it?

A. Well, I am not worrying about the business. I am going to lose on account of either of the carriers.

Q. I am not either, Mr. Gritsch, but you were talking about new induced business this morning on this faster schedule. Now, if your competitors meet that schedule, then you are not going to have any advantage over them that the combination routes don't have now, are you, on that score at least?

A. Of the combination we have now?

Q. Yes.

1306 A. They have the advantage over us, a through operation.

Q. Not on delivery time, do they?

A. On delivery time.

Q. Yes; time in transit?

A. Yes; sir.

Q. What is the extent in hours of that advantage presently?

A. I would say from three to six hours.

Q. Well, that could be eliminated right at Medford now, couldn't it, by a little speedier departure time with the north-bound schedules?

A. Part of it might, but it all couldn't; no.

Mr. BEROL. Am I laboring under a delusion in feeling that the primary concern is the advantage to the public and not the advantage to the individual carriers?

Mr. FARRENS. I am confident you are not.

By Mr. FARRENS:

Q. Now, you know, do you not, Mr. Gritsch, that in railroad transportation a shipment tendered to a rail carrier here in San Francisco is delivered to New York or any other place in the United States on a through bill of lading?

A. That is correct; yes.

Mr. BEROL. I hope counsel isn't about to suggest that truck operators adopt railroad practices.

By Mr. FARRENS:

Q. Now, is there any reason why a through bill of lading
1307 could not be issued under the present joint line operation of yourself and Consolidated between San Francisco and Portland on intermediate points?

A. Oh, that could be done, but that isn't what causes the biggest part of the delay.

Q. Does it cause some part of the delay?

A. I would say very little. The biggest part is the connection of the schedules, the same as it might be in the interchanges of railroad cars with different railroads. According to schedules the cars might set there for several hours to meet the other schedule,

Q. Mr. James' letter, which is Exhibit 10 here, says that if you would join Freightways there would be no problem of through billing.

A. No; because if I join Freightways, James would write the ticket there; he would operate his best for James.

Q. Now, if you handle through billing on all these shipments all that would be necesssary to maintain at the interchange would be what is known as a passing record, isn't that right?

A. I would say that is correct; yes.

Q. And if at the interchange at Medford the agent there was the joint agent of both companies and reporting directly to the home offices of both companies that would take care of that part of the work, wouldn't it, satisfactorily?

A. You mean if Freightways was agent for both them and me?

Q. No; if the Medford agent was a joint agent reporting
1308 jointly to both home offices of both companies that part of

the work would be taken care of satisfactorily, wouldn't it, as far as reporting is concerned?

A. They might do the reporting but it probably wouldn't be satisfactory.

Q. What do you have? Do you have separate agents at Medford now?

A. We do; yes.

Q. Well, in view of the fact that the interchange freight is so much larger in ratio than the local freight delivered by either company there, why don't you have a joint agent for both companies?

A. I have tried that different times; it didn't work out satisfactorily.

Q. If you did have that, that would eliminate settlements enroute, wouldn't it?

A. You mean settlements of the claims?

Q. No; the settlements between the companies enroute if you had joint agents?

A. Oh, they would have to still make settlements there whether it was joint agents or two agents.

Q. Let me read a little to you from Exhibit 10, Mr. James' letter, and see if you agree or disagree.

He suggests: "All of the agencies of each company would
1309 report directly to the Home Offices of each company. This would eliminate settlements enroute. On a shipment from Los Angeles to Seattle, the Los Angeles office would show on the bill the splits accruing to the various carriers. If the shipment was a collect shipment, the Seattle office of Consolidated Freight Lines would remit to Consolidated Freight Lines their proportion of the revenue; to Oregon-California Fast Freight its proportion of the revenue; and to the California Motor Express its proportion. If the shipment was a prepaid shipment, Los Angeles would remit to each company its respective proportion of the revenue. On such shipments the originating station would furnish the main office of each company with a copy of the bill, which would be used by the main offices of each company for general accounting."

Now, eliminating the question of Los Angeles and considering only your two companies, your main office here in San Francisco, their office in Portland, and joint agency in Medford, couldn't that be worked out in the manner indicated?

A. Not satisfactorily to both companies.

Q. Why, Mr. Gritsch?

A. Well, naturally all the claims and stuff would be—it depends on who was handling the runs, the office in Medford. I would like to have that kind of hook-up every place I was and let me run

the office for the simple reason that maybe there would be a claim there, and naturally one would really push it on to the other carrier.

1310 Q. Well, suppose what you had was a joint agency where either party could cause the discharge of the agent for unsatisfactory services and that agent, by virtue of his very position, under those circumstances would be afraid to be partial to one carrier as against the other. Wouldn't that solve the joint agency problem without leaving either side any advantage?

A. I have never had that—of all my experience in that I have never had that work that way.

Q. Well, Mr. Gritsch, you know that is done in the bus business right along, don't you?

A. I don't know what difficulties they have.

Q. They do have joint agencies for collections almost invariably, don't they?

A. Well, that is true, but a bus agency, a passenger gets on and naturally there is no claims there unless they have an accident or something, but with freight there is a lot of difficulty because there you have got to handle the freight; there is breakage and naturally some shortage.

Q. All right, but let's suppose the joint agency agreement between your company and Consolidated was such that the agent could be discharged at the complaint of either company. Under those circumstances that agent would be afraid to join any favors of one company as against the other.

Mr. BEROL. I will object to that. We are getting into the argument stage. The question has been asked several times.

1311 It has been answered to the best ability of the witness. I don't think we are getting anywhere at all. I think we are wasting a lot of time. Before we get through here the protestants will probably claim they haven't had enough time.

Chairman TERRIL. I don't believe we have had a direct answer to the question yet. I would like to have it.

Mr. BEROL. Are you able to give a more direct answer than you have given, Mr. Gritsch?

The WITNESS. I don't know how I could.

Mr. FARRENS Well, now, that is very helpful for counsel to interject that thing. Here is a very simple question being asked of a very expert witness. I am inclined to think the witness can answer it.

The WITNESS. Well, I can answer it this way, Mr. Farrens, for you: I know of Southern Pacific operations in various places where they hook up with, oh, different railroads. Take the Little River Railroad up north, for instance, and the Yreka Western Railroad.

The Southern Pacific and Yreka Western have joint rates; I guess they have a joint hook-up at Montague, the same agent.

Now, if O. G. Steele, the receiver for the Yreka Western Railroad wouldn't like Mr. Hallmark down here that is operating this, I don't think Mr. Steele could fire Mr. Hallmark or have him fired.

By Mr. FARRENS:

1312 Q. I am talking about discharging the agents. If the agent is so that the tender of his position is subject to the satisfaction of both parties and if he fails to satisfy both parties either can have him discharged, then, there is no chance for partiality that would be prejudice to either party, is there?

A. I am afraid that would be the case regardless of who was running it; there would be agents coming and going all the time.

Q. You and Mr. James are that hard to please, are you?

A. Well——

Mr. BEROL. I object to that as being thoroughly argumentative.

Mr. FARRENS. I withdraw the question. It is a little bit facetious.

By Mr. FARRENS:

Q. Now, on the subject of c. o. d. collections. Mr. James in Exhibit 10 has this to say: "We could arrange it so that each agency would collect c. o. d. money and remit it directly to the shipper with copies of their draft to the main office of the company that originates the shipment so that they would have a clearer record of the payment and c. o. d." Would that be a feasible arrangement?

A. That could be arranged; yes.

Q. It has not been arranged, has it?

A. No; it has not.

1313 Q. If that arrangement were made, it would eliminate the delays which some of the shippers have complained about on c. o. d. remittances, wouldn't it?

A. Well, I couldn't say that we have had very many complaints on c. o. d. shipments.

Q. Now, with respect to overs and shorts in Exhibit 10, Mr. James says: "We would adopt a uniform method of tracing shipments and reporting overs and shorts."

I wish to ask you whether or not he discussed that subject with you orally?

A. He has; yes.

Q. And what was the uniform method which you suggested?

A. Of course, Exhibit 10 is written in the case that I join Freightways.

Q. That is right, although I take it that a uniform method of tracing shipments, if limited only to the operation between San Francisco Bay and Portland, could be handled by the two companies through cooperation, as well as if they were an association of western truckers actually formed as suggested by Mr. James' letter; that is true, isn't it?

A. Well, I would say that it might be, but I don't agree with Mr. James' letter there.

Q. I know you don't; that is obvious, and I don't know that I blame you for not agreeing with it in all particulars, particularly in joining Freightways, having that rammed down your throat, but I am now concerning myself with this question as
1314 to whether or not he did suggest to you any practical method which would cover this matter of tracing shipments and reporting overs and shorts?

Exam. KEPHART. Even if he didn't join Freighways.

Mr. FARRENS. Yes, sir.

A. Yes; he suggested at different times various things, in other words, to let Consolidated handle them all, and I didn't agree with him.

Chairman TERRIL. Let's just be at ease for a few minutes.

(Whereupon a short recess was taken after which proceedings were resumed as follows:)

Chairman TERRIL. All right, I guess we will proceed now.

By Mr. FARRENS:

Q. I understand at Medford you have a common terminal but separate agents in the same terminal?

A. That is correct; yes.

Q. Do you operate separate pick-up and delivery services at Medford?

A. We do; yes.

Q. Would there be any advantage in operating a single unified pick-up and delivery service at Medford?

A. No; I don't think there would be; no.

Exam. KEPHART. Are both trucks engaged all the time daily?

The WITNESS. Practically the same time; yes.

Exam. KEPHART. For the full number of working hours?
1315 The WITNESS. Yes, sir.

By Mr. FARRENS:

Q. I understood you to testify that you have already perfected arrangements with your proposed connections at Portland to handle through business with them on through billing?

A. That is correct; yes.

Q. Is there any reason why it is more feasible to handle business on a through billing with connections at Portland than it is with your connections at Medford?

A. I don't think there would be any difference; no.

Q. And yet you have been unable to arrange for complete through billing at Medford such as you say you will be able to arrange with your connections at Portland? Is that the fact?

A. Yes; I would say that is true.

Q. Am I correct in assuming from your direct testimony this morning, well, perhaps, it was in answer to questions by members of the Board, that you feel that Consolidated Freightways for its own selfish purposes has failed to make as thorough a solicitation of southbound traffic for points south of Medford as they might have made?

A. Yes; that is true.

Q. And in your mind the reason for that was that if they procured more business at the north end destined to points south of Medford it would unbalance their traffic between Portland and Medford?

1316 A. That is correct; yes.

Q. And that was the situation which you felt would not be corrected in the event you accepted Mr. James' invitation to join Freightways?

Mr. BEROL. I think if you will add the words "that is one of the situation; you will get a ready "yes" for an answer.

A. That had something to do with it; yes.

By Mr. FARRENS:

Q. If the present traffic which is interchanged between your line and Consolidated Freightways at Medford and Klamath Falls is divided between those two carriers in the event both applications are granted for extensions, will there, in your opinion, be enough traffic to meet the operating expenses of all the schedules which are proposed by you and by Consolidated in its case?

Mr. BEROL. Now, just a minute.

Mr. FARRENS. I grant you that is not proper cross-examination, and I will take the witness on my own if you wish.

Mr. BEROL. I have no objection to the cross-examination insofar as it goes to this witness' operations. I will object insofar as it goes to a question as to whether Consolidated's proposed operations can be successful or not, unless a foundation has been laid that he has made some study of the Consolidated situation.

1317 If counsel will confine his questions to this witness I will have no objection.

Mr. FARRENS. I will withdraw that question and proceed along a different line with the same result.

By Mr. FARRENS:

Q. You have been in attendance at the Consolidated hearing which is being conducted concurrently, enough to be advised of the number of schedules proposed to be operated by that carrier in the event its extension application is granted; that is the fact, isn't it?

A. That is true; yes.

Q. And you know what schedules you propose to operate if your extension is granted?

A. Yes, sir.

Q. The knowledge which you have just indicated you have gives you complete knowledge of the number of schedules to be operated by both carriers if both applications are granted? You know the aggregate number of schedules for both of you?

A. That is correct; yes.

Q. And as a truck operator you have had sufficient experience to form a fairly accurate judgment of what the cost of operating the aggregate total number of schedules proposed by both applications is, haven't you?

A. I know what my cost would be; I couldn't speak for Consolidated.

Q. Well, assuming that the Consolidated operating costs
1318 per schedule would be upon approximately the same truck-mile basis as your own, then, I want to ask you whether or not the present traffic interchanged by the two carriers presently at Medford and Klamath Falls plus the interstate traffic available would be sufficient to meet the operating expense of the aggregate number of proposed schedules?

Mr. BEROL. To which I will object for the reasons already stated in the previous objection. There has been no foundation laid to indicate that this witness has given any consideration to what the costs of operating the number of schedules proposed by Consolidated is.

Mr. FARRENS. If the Board please, that objection is not well taken because the form of my question eliminated the very thing to which counsel objects.

I asked the witness to assume that the cost per truck-mile of Consolidated would be approximately the same as his own cost.

Chairman TERRIL. I think that the witness can answer. He has shown himself to be an experienced truck operator. With the assumption that Mr. Farrens put in the question, I think it is a fair question.

Mr. BEROL. Well, now, may I ask if it is proper without having established that the witness has given some consideration to the exact number of schedules, to the number of miles to be

operated what adding those towards his own proposed
1319 operations will be, and on a moment's notice, just like that, have him answer as to whether the cost which would certainly require some time in computation, would be equal to what the revenues are or not.

I think it is entirely unfair to the witness.

Mr. FARRENS. If the Board please, there may be some merit to what Mr. Berol is suggesting and I don't want to insist that the witness make a snap answer to that question, but I take it Mr. Gritsch will be here for some little time.

Mr. BEROL. He will be here throughout the balance of the hearings.

Mr. FARRENS. I would like it very much, Mr. Gritsch, if you would give consideration to precisely that question and be prepared to give the Board the benefit of your opinion on that question.

Mr. BEROL. To that I will have no objection.

Chairman TERRIL. I appreciate the situation. I think that is a fair method of handling it if at some later date he will be prepared to answer the question.

Mr. FARRENS. Counsel will see that it is done?

Mr. BEROL. Yes; I will state for counsel's information that this witness has given careful consideration to his own operating problems and the cost involved. If counsel wants to inquire about that, the witness is prepared to answer on that issue now.
1320 He did that in order to place himself in a position to answer this morning as he did, that he could conduct his proposed operation profitably.

By Mr. FARRENS:

Q. I assume, Mr. Gritsch, that you do not know on the basis of actual experience what it will cost you per truck-mile to operate the schedules which you propose to operate north of Medford?

A. On my part of it I do; yes.

Q. Have you operated trucks between Medford and Portland recently?

A. Several years ago I did, about 10 years ago.

Q. Well, isn't 10 years ago a little long back to be premising modern costs of truck operation on?

A. Well——

Q. (Interrupting.) Mr. Gritsch, before you answer that question, I am not questioning your ability to figure out what it is going to cost you per truck-mile accurately, but isn't it a fact that what you really are relying on is the truck-mile costs on the system that you are now operating and believe that you could project them through from Medford north to Portland safely?

A. Well, I could answer that by explaining a little bit.

Q. All right.

A. I have been operating between here and Medford, Oregon, for 11 years, interchanging freight with various connecting carriers, that is, with Pierce Auto Freight, with Consolidated,
1321 Pacific Truck Express, Bend-Portland Truck Line, where all the revenue has been split on a percentage basis using the first-class rate as a percentage basis. I have been operating 400 miles each way between here and Medford, Oregon, and that operation has been very profitable, and between Medford and Portland, if this certificate is granted——

Q. (Interrupting.) Now, pardon the interruption. I am not asking you about your profits. I am talking about your costs.

A. Well, I will have to tell you about—I am getting right at the costs now.

I figure it will cost me $4,000 a month additional to put in the intermediate offices, delivery service and the terminal facilities at Portland.

Mr. BEROL. And the other intermediate points at which you propose terminals?

The WITNESS. That is correct; yes.

Exam. KEPHART. That is capital investment?

The WITNESS. That is right, yes; $4,000 monthly operating expenses.

Exam. KEPHART. Monthly operating expenses?

The WITNESS. That is right. At the present time under Exhibit No. 8 on the interchange of freight that I am now turning over to Consolidated and Pierce at Medford, the percentage of revenue runs between twelve and fourteen thousand dollars a month;
1322 $4,000 a month additional terminal expenses; that leaves $10,000 per month and I can run a lot of trucks a lot of miles for $10,000 a month.

Exam. KEPHART. Off the record.

(Remarks outside the record.)

Chairman TERRIL. On the record.

By Mr. FARRENS:

Q. What, during the year 1939, was your truck-mile cost in the operation between San Francisco and Medford?

A. Offhand, I couldn't answer that.

Mr. BEROL. May I interject a question at this time?

Mr. FARRENS. Surely.

Mr. BEROL. Just in line with the prior questions.

Now, this twelve to fourteen thousand dollars a month that you mentioned, did that contemplate any south-bound traffic at all?

The WITNESS. It does not.

By Mr. FARRENS:

Q. Will your truck-mile operating cost be, in your opinion, as great from Medford to Portland as it is from San Francisco to Medford?

A. Actual cost?

Q. Yes.

A. No; it wouldn't.

Q. Why not?

A. Because there is more severe operating conditions between here and Medford, Oregon, than there is between Medford

1323 and Portland, Oregon.

Q. In your opinion, how many cents or mills per truck-mile less than your San Francisco-Medford operation, will your Medford-Portland operation be?

A. Well, I don't think I could answer that on the mills per mile.

Board Member BROWN. Could you do it on a truck-mile basis?

Exam. KEPHART. Or cents per truck-mile?

The WITNESS. I figure it costs me 13 cents per mile to operate the semitrailer, that is including depreciation, tires, drivers, and the actual overhead of the truck operation regardless of the terminals between Medford and Portland.

Board Member BROWN. Thirteen cents a truck mile?

The WITNESS. That is correct.

Mr. BEROL. And the exclusion of any overhead?

The WITNESS. That is right.

Exam. KEPHART. What is the rate between here and Medford?

The WITNESS. Twenty cents a mile operating a different kind of equipment.

Mr. BEROL. May I straighten the record?

Board Member BROWN. I thought he said inclusive of overhead.

Mr. BEROL. Now, let me see if we understand each other

1324 on that.

You stated that the operating expenses would be 13 or 14 cents per truck-mile. Now, will you relate again as to what expenses you include in that 13 or 14 cents per truck-mile?

The WITNESS. As I said, that is depreciation on equipment, drivers, fuel, tires. insurance, and license.

Exam. KEPHART. And maintenance, of course?

The WITNESS. That is right; and maintenance.

Mr. BEROL. In other words, those expenses are applicable directly to the truck?

The WITNESS. That is correct.

Mr. BEROL. It doesn't include any overhead?

The WITNESS. No; it does not.

Exam. KEPHART. Does the 21 cents include overhead or is that on the same basis?

The WITNESS. On the same basis.

By Mr. FARRENS:

Q. What was the 21 cents figure?

A. That is for the operation between—of course, that is between San Francisco and Medford, San Francisco and Klamath Falls, and San Francisco and Nevada points.

Q. And in the latter operations you are able to use larger and heavier equipment than you would between Medford and Portland?

A. That is correct; yes.

1325 Q. Is that one of the principal factors that accounts for the difference between 31 cents per truck-mile and 21 cents per truck mile?

A. 13 and 21.

Q. 13 and 21?

A. That is correct; yes.

Q. Is that the major factor?

A. Well, it costs more to run bigger equipment than it does smaller equipment; yes; per truck-mile.

Q. Do you figure your drivers' wages are the same on both operations?

A. I did; yes.

Q. Then, to the 13 cents per truck mile direct operating cost you believe it will be necessary only to add $4,000 per month to cover all of the additional expenses which would be incurred by extending your operations from Medford to Portland; is that correct?

A. That is correct; yes.

Q. That would include advertising, solicitation, pick-up and delivery, station agents?

A. That is correct.

Q. Terminal rentals and all that sort of thing?

A. Yes, sir.

Q. Now, you figured to retain 65 per cent of the $14,000 which that operation would aggregate gross, which is $9,100, and

1326 if you subtract the $4,000 which you have allocated for indirect expenses, you have $5,100 left?

A. That is correct; yes.

Q. Now, how many truck-miles per month will be involved in your operation from Medford to Portland on your proposed schedule?

A. I figure 2,000 miles a day.

Exam. KEPHART. For how many days per month?

The WITNESS. 25 to 26 days, approximately 50,000 miles per month.

By Mr. FARRENS:

Q. That would produce, if my mathematics are right—which it frequently isn't—a direct cost of $6,500.

Mr. BEROL. No consideration has been made for any south-bound traffic out of those figures.

By Mr. FARRENS:

Q. Now, the south-bound traffic is about one-fifth as great, so we would have one-fifth of $14,000, or something less than $3,000 of which you would propose to retain about 35 per cent, or $950. $950 and $5,100 is $6,050, so that you would be operating in the hole to the extent of $450 per month unless you got added traffic which is not now being interchanged at Medford and at Klamath Falls. That is correct, isn't it?

A. I would say—I haven't seen your figures, but I would say that is about right, but as I said before, I am going to get
1327 more tonnage south-bound than I am getting at the present time.

Chairman TERRIL. Excuse me, Mr. Farrens. Did your question include the south-bound traffic?

Mr. FARRENS. Yes.

Chairman TERRIL. I missed that portion of it.

Mr. FARRENS. A summary of the total based on his testimony so far.

Chairman TERRIL. Yes.

Mr. FARRENS. Thank you, Mr. Gritsch. I think that is all.

By Mr. IVERS:

Q. On this 34,000-pound trailer which you will convert into a semi at the Oregon Line, what will be the total gross weight of the unit, the semitrailer unit as you take it through Oregon?

A. It will be about 10,000 pounds.

Q. Well, the total gross weight?

A. For the trailer, 11,400 pounds.

Q. What will be the total gross weight of the entire semi?

A. About 21,000 pounds, 22.

Q. The total loaded gross weight?

A. Will be 49,000.

Q. 49,000. Now, your load limit in Oregon is 54,000?

A. For a combination truck and trailer, but not a semitrailer.

Q. What is the load limit for a semitrailer?

A. 49,000 gross.

1328 Q. Now, is it possible to operate a truck and trailer carrying this six-wheel trailer, 34,000 pounds and carrying a load totalling 54,000 gross?

A. Is it possible?

Q. Yes, sir.

A. Yes.

Q. Now, when you split this load at the Oregon State Line where is the truck going?

A. If we split the equipment, you mean, or the load?

Q. The equipment?

A. The equipment. The truck will go to Medford if it is loaded with Medford freight; if it is loaded with beyond freight to Roseburg and the Coquille country it will go to Coquille.

Q. If it is loaded with Portland or north of Portland traffic, then, it will go to Portland?

A. The trailers will be loaded with that.

Q. And only the trailer is going through to Porland, then?

A. That is correct; yes. In case of maybe some emergency we might send the truck through.

Q. Now, how many trailers a day do you anticipate carrying through to Portland?

A. Three to four.

Q. And how many do you anticipate turning over to connecting carriers at Portland?

1329 A. Probably one to Seattle and one to Spokane.

Q. Now, will that trailer be brought back from the Seattle connecting carrier intact to the Oregon State Line and then hooked up again to a truck?

A. What Oregon State Line?

Q. The south Oregon State Line?

A. No; it will be brought from Seattle by the connecting carrier there. It is a six-wheel trailer and will be converted back into a semitrailer at Portland and will go back as far as Medford or the California State Line.

Q. Now, that is the only unit that will be operated in interchange between you and the carrier north of Portland?

A. The only one?

Q. That trailer; yes?

A. Oh, there might be half a dozen trailers.

Q. Or half a dozen trailers?

A. That is right.

Q. But you only anticipate running one a day north of Portland?

A. Unless there is enough volume for two, why, there will be two.

Q. Well, now, how do you anticipate handling the mixture of refrigerated freight out of Seattle which includes fresh frozen fish in this trailer unit?

A. Well, if there is a load of refrigerated commodities coming down through there it would naturally come on the refrig-
1330 erated trailer.

Q. Suppose that you received at Seattle 10,000 pounds of fresh fish and 10,000 pounds of frozen fish, how would you expect to transport those two commodities?

A. Well, that would be two trailer loads, practically two full trailer loads.

Q. All right. Suppose you got 5,000 pounds of each, how would you anticipate transporting them?

A. They would probably put both the frozen fish and the fresh fish—it depends on what equipment they have there.

Q. Supposing you got one trailer there and you get 5,000 pounds of frozen fish and 5,000 pounds of fresh fish, how will you transport it?

A. I suppose the connecting carrier would haul the 5,000 pounds of fresh fish down to Portland in separate equipment.

Q. How would you carry it there from Portland beyond?

A. On another piece of equipment that I would have there.

Q. And would you have annother piece of equipment there to handle it?

A. I said I would have three there every day.

Q. Three trailers?

A. That is right.

Q. Well, now, you have produced a number of witnesses here who have testified as to the service that you have promised them on refrigerated commodities in various lots. For
1331 instance, you had a man who shipped oysters in small lots which require 40 degrees of refrigeration; you had a witness who ships butter requiring 36 degrees of refrigeration; you had a shipper who has loads of 3,300 pounds of frozen fruit requiring 30 degrees or less of refrigeration; cold pack requiring 10 degrees of refrigeration; eggs requiring not less than 50 degrees of regrigeration; poultry frozen requiring 30 degrees of refrigeration and fresh not less than 40 degrees of refrigeration and frozen fish requiring 20 degrees of refrigeration and fresh fish not less than 40 degrees of refrigeration.

Now, will you tell me how you anticipate handling those lots the witness testified to, the 250-pound, 2,000-pound, 3,300-pound lots to which they testified?

A. Well, we handle them practically now.

Q. How are you handling them now?

A. Frozen fruits are put in refrigerated equipment, fish, fresh fish all insulated equipment which are iced.

Q. And you are able to do that with this combined service which you and Consolidated are now operating?

A. We are getting some now; yes.

Q. Are you carrying it in quantities such as the witness has testified to, for instance, oysters, in 100-, 250-pound lots?

A. We are.

Q. You are maintaining 40 degrees of refrigeration for that?

1332 A. I wouldn't say exactly what the——

Q. (Interrupting.) Well, you heard the testimony of Mr. Plancich that they couldn't have less than 40 degrees of refrigeration?

A. We are hauling them right along. I haven't got a claim from him yet.

Q. What else are you carrying?

Board Member BROWN. I thought his testimony was that it couldn't be frozen.

Mr. IVERS. He said that it couldn't be below 40 degrees.

Board Member BROWN. I thought he said that it couldn't be below freezing point.

Mr. IVERS. Well, he testified that they couldn't be frozen or they would be ruined if they were frozen. My notes show he testified 40 degrees was the proper temperature.

By Mr. IVERS:

Q. Are you hauling any other refrigerated commodities at the same time that you are hauling these small shipments of oysters?

A. I think the oysters are hauled in different equipment at the present time.

Q. Well, now, how many trailers do you have available at the present time under the joint service, in regular service daily south-bound that are available to handle this traffic?

A. At the present time?

Q. Yes.

A. I have five refrigerated trailers and Consolidated have

1333 seven or eight.

Q. Are they available daily?

A. Yes, sir.

Q. All of them at any one point?

A. All at one day?

Q. Yes, sir.

A. No.

Q. How many of them are available at Portland at any one time for shipments originating at Portland either arriving from Seattle or otherwise?

A. Two or three.

Q. Three is the most?

A. Well, if there is 10 loads we would have 10 trailers there to get it back.

Q. Well, but how much notice would you have to have to get 10 trailers there?

A. If it happened very many times—we have got extra equipment now. We could easily get it converted to the other end.

Q. With the mechanically refrigerated equipment that you are operating it is necessary, of course, or it is possible to maintain one temperature in the entire unit, is it not?

A. No.

Q. Can you maintain different temperatures in different parts of the unit?

A. You could; yes.

1334 Q. How?

A. By having what they call a—I don't know exactly what you call it—it is practically the same as doors in there that you can move to any part of the trailer.

Q. And will your temperature be controlled in all parts of the trailer then?

A. No; it will not.

Q. It will not be?

A. No.

Q. It will only be controlled in one part?

A. That is correct.

Q. So you can only have a controlled refrigeration at one temperature in the unit?

A. Well, yes; that is right.

Q. Well, now, do you think, Mr. Gritsch, that it is feasible at the revenue available to give the service daily which some of these witnesses have testified they have been told can be given for refrigerated commodities in less than truckload or less than trailer load lots that they indicate they want expedited service on, and each of them requiring varying temperatures?

A. Well, I think your estimates there are a little bit off on that. We haul—in other words, if there is a commodity moving that would take—still might be frozen and you could hold it at

1335 33 or 34 degrees and put something in there with it that shouldn't be frozen, it still wouldn't freeze.

Q. You think you could hold a frozen commodity in transit by maintaining a temperature of 33 degrees?

A. Some commodities you can; yes.

Q. What, for instance?

A. Frozen berries, for instance.

Q. You can hold frozen berries?

A. Yes, sir.

Q. Have you ever tried it?

A. We have; we have hauled them without refrigeration equipment in it at all.

Q. Now, the cartons on cold pack berries, the carton itself contains a legend not to permit the temperature to rise above 10 degrees, does it not?

A. Some of them do; yes.

Q. And is it your testimony now that you can maintain a temperature of 35 degrees——

Mr. BEROL (interrupting). No; he was talking about frozen fruits, not cold pack. I understand there is a difference.

Mr. IVERS. All right, I am talking about frozen fruits too.

A. We are moving them now at times with dry ice, the same as the rest of the carriers, Los Angeles-Seattle Motor Express, Mitchell.

By Mr. IVERS:

Q. Maintaining what degree of temperature?

1336 A. I don't know what the degree is, but we don't have any trouble with them.

Q. I want you to answer me directly if your testimony is that the commodities I described can be transported at 33 degrees temperature and deliver the commodities in proper condition?

A. Well, I couldn't tell you what the temperatures are now when they are coming down, but we are delivering them right along.

Board Member BROWN. You are delivering them in mechanical refrigeration?

The WITNESS. Sometimes, sometimes under dry ice; it depends on the quantity of the movement.

By Mr. IVERS:

Q. And what determines your use of dry ice and your use of the mechanical refrigerated unit?

A. The quantities of the shipment; what else might be in there.

Q. Well, what quantities would determine that?

A. As far as that goes, if there would be 200 pounds of frozen fruit in there, and the rest of it to where the temperature wouldn't hurt it, all you would have to do is turn the machine off.

Q. But what I want to know is, what size shipment determines whether you are going to use dry ice or you are going to use mechanical refrigeration?

A. It depends on what is hauled along with it, as I said before.

1337 Board Member BROWN. Do you mean you are going to use a combination of mechanical and dry ice refrigeration?

The WITNESS. At the present time that is what we do.

Mr. BEROL. Not on the same truck?

The WITNESS. Not on the same truck; it is on different equipment.

Board Member BROWN. I think that is a little confused.

By Mr. IVERS:

Q. Are some of these trailers that you are operating mechanically refrigerated and other not mechanically refrigerated?

A. Yes, sir.

Q. How many of them are mechanically refrigerated?

A. At the present time, five.

Q. Five are not?

A. Oh, there is 14 that are not.

Q. That are interchanged between you and Consolidated?

A. Most any of them could be interchanged, yes; you could interchange most any of them.

Q. Well, are they interchanged, not whether you could?

A. Yes.

Q. They are?

A. I wouldn't say all of them, but then it varies in between.

Q. Well, then, you don't believe that mechanical refrigeration is necessary to give the service that you have been describing?

A. Oh, yes; it is, if it wasn't I wouldn't have it.

1338 Q. But proper refrigeration can be given without mechanical refrigeration?

A. On some commodities.

Q. On which commodities can't it be given?

A. It depends on what temperatures they want to keep them and the size of the shipment.

Q. Just give me the names of some commodities that need mechanical refrigeration, but cannot be refrigerated with dry ice?

A. Different produce, fresh meats—it can be, but I think you heard a witness say here yesterday that the gas spoils the produce, which I know from experience, too.

Q. By the way, have you hauled fresh produce in mechanically refrigerated equipment?

A. Yes, sir.

Q. What method of humidifying do you use?

A. What?

Q. What method of humidifying do you use?

A. Of the temperatures, do you mean?

Q. No; of putting moisture into the air?

A. To have moisture in there all you have to do is to set a barrel in there with some water in it.

Q. Where do you put the barrel with the water in it?

A. Most any part of the equipment.

Q. And the barrel is an open barrel?

1339 A. Yes, sir.

Q. Does the water remain in the barrel? Is it spilled?

A. No.

Q. It doesn't?

A. No.

Q. How do you fix the barrel?

A. Just set it in the corner and pile produce around it.

Q. And you find that that successfully humidifies the load?

A. It seems to.

Q. How far have you loaded fresh produce, how far have you carried fresh produce under those conditions?

A. From here to Seattle, Puyallup to San Francisco, San Francisco to Tacoma.

Q. Are you doing that regularly?

A. Right along; yes.

Q. Now, in the testimony that you gave a little while ago you testified that you had been loading out of San Francisco and Oakland in station order on the equipment that moved through, is that correct?

A. I would say mostly San Francisco; I wouldn't say so much Oakland.

Q. Is it your intention on your proposed application to load in station order?

A. In some instances; yes.

1340 Q. Now, you load the San Francisco truck in station order, the truck that leaves San Francisco?

A. Some of them we do; yes.

Q. And when you get over to Oakland, if there are any pick-ups over in Oakland how do you load those in the truck that has already been loaded in station order in San Francisco?

A. There is other equipment in Oakland that is loaded practically the same way.

Q. Then, you wouldn't make up any pickups with that equipment, with the San Francisco loaded equipment in Oakland?

A. I don't think we will because we have enough tonnage out of Oakland to load through equipment.

Q. Now, are either of those trucks going to move into Sacramento?

A. No.

Q Are you going to have a separate schedule out of Sacramento?

A Yes, sir.

Q. What time will these regular daily schedules leave San Francisco and Oakland?

A. All the way from four o'clock in the afternoon until practically eight at night.

Q. How many do you expect to dispatch every day?

A. About four to five schedules.

Q. And how many of those schedules will move on through to Portland?

A. Three or four.

1341 Q. How many to the Coos Bay area?

A. One.

Q. And how many to Lakeview?

A. One.

Q How many to Klamath Falls?

A. At present one, right now.

Q. Will those all leave San Francisco as truck and trailer units?

A. They will; yes.

Q. And each is a 68,000 pound gross truck and trailer unit, I mean, that size equipment?

A. That is right, yes.

Q. Now, from your past experience will the traffic that is available to you enable you to maintain substantially fully loaded all of those schedules that you have just described leaving San Francisco daily?

A. Well, that is what I am running now. I am buying equipment all the time and have for the last 5, 6 years.

Q. And do you anticipate that the traffic would be available south-bound would load all of those trucks substantially to capacity south-bound?

A. No; I don't think it would load all of them.

Q. What has been your north-bound load factor on that many schedules?

A. Practically, a hundred percent.

1342 Q. You mean that every one of them has left here loaded with 68,000 pounds?

A. Practically; yes.

Q. Up to 68,000 pounds?

A. Of course, some of those just go as far as Redding; I operate from here to Redding, from here to different points in northern California, to Klamath Falls, Medford.

Q. Well, now, the difference between the total loading of the schedules that you have mentioned as now being operated regularly and the traffic which is shown as an average daily movement north of Klamath Falls and Medford, which is interchanged there, that difference would equal the traffic that you are now handling intrastate in California and destined directly to Klamath Falls and Medford, would it?

A. I don't understand what you mean by the question.

Q. Well, you have just described to me the number of schedules and the capacity of equipment which you say is leaving here a hun-

dred per cent loaded regularly. I say that the difference between the tonnage shown on Exhibit 7, which is the interchange traffic at Klamath Falls, and the total amount of that daily average haul that you say you leave here with represents the intrastate traffic you haul and the traffic destined to Klamath Falls and Medford?

A. And Ashland and the intermediate points between the Oregon State Line and Klamath Falls or Medford; yes.

1343 Q. Those intermediate points?

A. That is right.

Q. Now, you testified that the north-bound traffic has preponderated for the past six years. It that correct?

A. Increased; yes.

Q. No; has preponderated; there has been more north-bound on this interchange than south-bound?

A. That is correct.

Q. You have had this arrangement with Consolidated for ten years?

A. Since July 10, 1929.

Q. What was the situation prior to six years ago? Did the south-bound traffic preponderate over the north-bound?

A. No; I don't think it did.

Q. Then, your statement that it just began preponderating six years ago wasn't correct?

A. I will explain it this way: When I started operating down here—I was the first operator that started down here—I ran equipment empty between here and Medford to hold up the schedule to be able to prove to the public that I was going to keep on daily service and improve the service.

Q. How long did you operate such empty equipment?

A. It varied on and off for six, eight months. Sometimes we would have two ton in a truck, sometimes we didn't have anything.

1344 Q. Well, is this ten years ago that you are talking about now, eleven years ago?

A. That is correct; yes.

Q. Well, now, when in the history of this operation did the north-bound traffic become more than the south-bound traffic?

A. Well, I think it was around 1932 or 1933 when we started.

Q. Then, from 1929 to 1933 the south-bound predominated?

A. Well, I couldn't answer that exactly. I know it was not very heavy either way.

Q. Now, with respect to these refrigerated commodities, isn't it a fact, Mr. Gritsch, that the largest packers of these refrigerated fruits and vegetables are located in and around Seattle, in the territory between Seattle and Tacoma?

A. Well, Vancouver, Washington.

Q. Well, no; you answer my question. Isn't it a fact that the largest packers are located in that territory between Seattle and Tacoma?

A. That is frozen fruits?

Q. Frozen fruits and vegetables?

A. At the present time I guess they are. A lot of witnesses testified they were putting in different places at different points.

Q. At the present time the largest origination of that traffic is at that point; isn't that correct?

A. Personally I don't know.

1345 Q. You don't know?

A. No.

Q. Well, when you testified there was 50 per cent of it originated in Portland and south of Portland and 50 per cent of it north of Portland, upon what were you basing that testimony?

A. Our investigation there and the witnesses that testified.

Q. Well, now, you say you don't know.

A. That is, I am talking about different commodities. I am not talking about cold packs; I am talking about meat, butter, poultry and various commodities.

Q. Well, how about fish? Where does the majority of the fish originate?

A. Seattle, Astoria.

Q. Where does the majority of it originate?

A. Newport.

Q. As between points north of Portland or points south of Portland?

A. That is seasonal in different points; I don't know.

Q. You don't know?

A. No.

Board Member BROWN. How about the Sacramento River?

By Mr. IVERS:

A. In comparing the costs of operation to which you testified, have you investigated the additional cost of operation in

1346 Oregon from the splitting of your equipment into power units as against the one power unit in the State of California?

A. There will only be one power unit in Oregon.

Q. If you take a truck and trailer and you move both of them through to Portland you will have two power units moving the same equipment that you move with one power unit in California?

A. As I said before they will just go as far as Medford and Klamath Falls and on as far as Roseburg. Trailer equipment

will be converted into a semitrailer and tractor at the state line and go on to Portland. You can pull practically the same tonnage on there as the operators now running through are hauling on a combination of truck and trailer.

Q. And you anticipate at no time running a truck unit beyond Medford?

A. In emergency, I might.

Q. Well, except in emergency cases?

A. That is the only time; yes.

Q. Well, now, is this trailer unit that is going north of Medford also going to serve all of the intermediate points between Medford and Portland?

A. No; from Roseburg north, one of them will.

Q. Now, which one will? Will it be the earliest departure or the latest departure?

A. I would say it would be the later one.

1347 Q. What time will that latest one depart from San Francisco?

A. Oh, 7 or 7:30 at night.

Mr. IVERS. That is all.

Mr. FARRENS. Just one point, Mr. Gritsch.

By Mr. FARRENS:

Q. Generally speaking, isn't it a fact that the traffic available to you for north-bound movements from San Francisco is of such a character that when your units are fully loaded their weight is not up to the gross maximum permissible under the California law?

A. It is under the California law but not under the Oregon law.

Q. I wonder if you understood my question?

Board Member BROWN. Yes; I was wondering too. Read the question back to the witness.

(The question referred to was read by the reporter as above recorded.)

A. No: I would say it is.

Board Member BROWN. You mean you have the maximum capacity on your truck when you leave San Francisco?

The WITNESS. Practically all the time.

By Mr. FARRENS:

Q. Isn't a fact that the bulky nature of the commodities which you handle north-bound is such that when your truck is fully loaded to cubical capacity you still have not reached the permissible aggregate weight under the California law?

1348 A. That isn't the truth. You have two scales, one here at Keffville and one at Dunnigan. I know we get plenty of tickets there for just a few hundred pounds over.

Chairman TERRIL. I don't believe you still have Mr. Farrens' question, Mr. Gritsch.

Board Member BROWN. I guess he has.

Mr. FARRENS. I think he has. When he talks about paying fines, why, I think he must be loaded.

Mr. BEROL. He didn't talk about paying fines. He is just talking about getting tickets.

Mr. FARRENS. There may be a difference; I don't know.

By Mr. FARRENS:

Q. So you expect, then, to unload at Medford or Ashland the difference between your 68,000 pounds and your 49,000 pounds out of each north-bound movement?

A. No; there won't be any unloaded.

Q. Well, I wonder if I have got your idea.

A. Well, maybe I can explain it this way: A six-wheel truck, that is a three-axle truck with a 22-foot van body and a six-wheel trailer with a 24-foot van body is what we operate. The six-wheel trailer has what we call drop legs on it. It has a dolly under the front of it. It looks just exactly like a six-wheel trailer but you run the drop legs down and you pull a lever and pull the front wheels out from under it and you can back under it with a tractor and make a semitrailer, which is all done in, I would say, less than five minutes.

1349 At the Oregon Line at the present time—not at the Oregon Line—at Ashland at the present time that tractor comes from Medford daily and picks those trailers up and takes them to Medford. Instead of taking them to Medford and unhooking them they naturally would go right on through to Portland.

Chairman TERRIL. What you want is how he accomplishes the reduction in weight, isn't it, Mr. Farrens?

The WITNESS. I am allowed more weight in Oregon than there will be on the trailer. There will be practically 11 ton on the trailer when it gets to Ashland and I am allowed practically 13 ton. If I would put 2 more ton on it still would be in the permissible weight for the State of Oregon.

Board Member BROWN. He means load at Ashland.

The WITNESS. It would have to be on the other side of Ashland is right.

By Mr. FARRENS:

Q. But we haven't reached the thought I had in mind at all, Mr. Gritsch. How much will you carry out of here on your truck and how much will you carry out on your trailer?

A. Practically 11 ton net on the trailer and 7 ton net on the truck. Some trucks will carry 8 ton, but an average of about 7 ton on the truck.

Q. Now, when you get to the Oregon State Line you will take that trailer and put a power unit on it and carry that on north to Portland?

1350 A. That is right.

Q. What then becomes of the 7 ton that is in the truck?

A. That is probably—it will be Medford freight. It could be Grants Pass, Roseburg, Coquille, or Marshfield, because the trucks will run as far as Marshfield.

Now, if I want to stop in Medford and put on another five ton on the truck I still can because the truck—you can still haul as much on the truck, a six-wheel truck in Oregon that you can practically on a truck and trailer.

Q. Then, you plan on only 11 ton out of the 18 ton that starts at San Francisco going through to points north of Roseburg?

A. That is correct.

Mr. BEROL. I will be very happy to hold open house at the terminal and invite all parties there for the purpose of inspecting equipment.

Mr. FARRENS. That is all. Thanks.

Mr. IVERS. One question I overlooked, Mr. Gritsch.

By Mr. IVERS:

Q. What time do you plan departure from San Francisco of the trailers destined for Seattle and Spokane?

A. I would say they would average about 7 o'clock.

Q. And what time do you plan for those trailers to arrive in Portland?

A. About 7, 8 o'clock the next evening.

Q. Well, now, what time is it necessary to make a departure from Portland in order to make the next morning delivery

1351 in Spokane?

A. It can be done with a carrier leaving there at 7, 8 o'clock. They will still be in Spokane the next morning.

Q. Have you made any check as to the difference in the running time between Portland and Spokane?

A. I have.

Q. Do you know at the present time the time of departure for early morning delivery in Spokane is 5 o'clock out of Portland?

A. How early?

Q. For next morning delivery in Spokane?

Board Member BROWN. Doesn't the record show that this connecting carrier will leave at the time that he arrives, approximately?

Mr. IVERS. Well, the point I am making is on this early morning delivery in Spokane which has been discussed here.

A. I don't think they testified early morning. I think the testimony into Spokane was around 7, 8 o'clock in the morning.

By Mr. IVERS:

Q. Arrival. That is what I want to know. Have you checked to find out the necessary time to leave Portland in order to arrive at Spokane at 7 or 8 o'clock in the morning?

A. Like the connecting carrier said, 7 or 8 o'clock at night; he should be there 7 or 8 in the morning.

Mr. IVERS. That is all.

1352 Mr. JENNINGS. I would like to ask a question if I may.

By Mr. JENNINGS:

Q. Mr. Gritsch, as I understand it, you are not proposing to operate any motorized equipment through?

A. Any more what?

Q. Any motorized equipment?

A. Motorized?

Mr. BEROL. What is meant by "through"? Through to where?

Exam. KEPHART. You mean single truck units?

Mr. JENNINGS. Any powered equipment.

By Mr. JENNINGS:

Q. You are not proposing to operate anything with a motor in it through to Portland?

Board Member BROWN. He testified this morning he wouldn't, didn't intend to.

Is that your testimony, Mr. Gritsch?

The WITNESS. No; I don't think a trailer would run without a power unit on it.

Board Member BROWN. No; I mean your power equipment; you are not going to operate through?

The WITNESS. If this is granted?

Board Member BROWN. Yes.

The WITNESS. Most certainly it will.

Board Member BROWN. Your power equipment?

The WITNESS. These tractors.

Mr. BEROL. I wonder if we are all talking about the same thing.

1353 Do you mean you will operate your power equipment through to Portland?

By Mr. JENNINGS:

A. I want to be certain that we are talking about the same thing. There is no motorized equipment, no equipment with power in it which is going to operate between San Francisco and Portland, is that correct?

Board Member BROWN. You mean to Portland or beyond?

Mr. JENNINGS. To Portland.

By Mr. JENNINGS:

Q. Are you going to run any piece of equipment with an engine in it from here to Portland?

A. As I said before I don't—I never found a trailer yet that—or a truck without an engine in it.

Mr. BEROL. The answer is "yes."

By Mr. JENNINGS:

Q. I understand you would stop at——

A. (Interrupting.) We would use a six-wheel truck and a six-wheel trailer from here to the Oregon State line; from the Oregon State Line to Portland it would be a trailer with a tractor on it to make a semitrailer.

Q. That tractor is the same tractor that hauls it out of San Francisco?

A. No.

Q. It is another one?

A. That is right.

Exam. KEPHART. That tractor would operate only in Oregon?

1354 The WITNESS. (No response.)

By Mr. JENNINGS:

Q. So far as the movement of freight it will move in trailers?

A. That is right.

Exam. KEPHART. Wouldn't the first movement continue over to Marshfield?

The WITNESS. The trucks will.

Exam. KEPHART. That has power in it.

Mr. JENNINGS. I am referring to Portland and beyond.

By Mr. JENNINGS:

Q. Then, insofar as the movement of freight is concerned, it will be altogether in trailers?

A. Beyond Medford and the Coquille country; yes.

Q. I am speaking of the Portland and beyond carriers?

A. That is correct; yes.

Q. From San Francisco to Portland the motive power will be your own and beyond Portland the motive power will be furnished by connecting carriers?

A. That is correct; yes.

Q. The service will be the same except that you will pass the ownership of the motive power? Is that your proposal?

A. I don't know if you would pass the ownership.

Exam. KEPHART. You said beyond Portland?

Mr. JENNINGS. Beyond Portland.

The WITNESS. Under lease arrangement we would interchange equipment beyond Portland.

1355 By Mr. JENNINGS:

Q. Now, then, are you familiar with the competitive situation with respect to the south-bound freight in Portland?

A. Competitive?

Q. Yes.

A. In some respects; yes.

Q. Will you tell us how many firms are actively soliciting south-bound freight for San Francisco and Portland and who they are?

A. No; I don't know how many are soliciting there; I couldn't say.

Q. You, I believe, indicated or stated that, in your opinion, there was considerable south-bound freight available?

A. That is correct; yes.

Q. If it is a fact that there are at the present time ten operators actively soliciting south-bound freight from the Portland area for San Francisco, would you still think that there was plenty of freight available?

A. Well, I have heard a lot of shippers crying for service.

Q. I believe you also stated that there was traffic available south-bound which is not now moving. Would you mind telling us what you had in mind?

A. Well, our investigation as the witnesses testified was if they had the service they would ship to San Francisco.

Board Member BROWN. On what commodities?

1356 The WITNESS. Well, practically—there is a lot of commodities, mostly butter, eggs, considerable different commodities, fresh meat.

By Mr. JENNINGS:

Q. Would you mind telling me what you mean by a service available when there is already ten operators actively soliciting that business?

A. You mean——

Mr. BEROL (interrupting.) Just a minute, please. I am going to object to that. There has certainly been no indication that there is any such number as ten operators. I think it is entirely unfair and prejudicial to name that kind of a number in a question on cross-examination to the witness.

Mr. JENNINGS. I am not assuming the figure ten.

Board Member BROWN. Objection sustained.

Mr. JENNINGS. I can name the operators.

Mr. BEROL. You will have an opportunity to do so on direct.

Chairman TERRIL. The Board has ruled.

Mr. FARRENS. May I be permitted to ask Mr. Jennings if he will be prepared to prove, when the protestants' case comes on, that there are ten truck transportation systems operating between Portland and San Francisco and actively soliciting freight?

Mr. JENNINGS. I would state that I will myself, if it is necessary, take the witness stand and testify as to who
1357 the ten operators are that I have referred to that are actively soliciting freight in the Portland area for San Francisco.

Mr. FARRENS. In view of that offer of testimony I submit that there can be no question about the propriety of the question now asked.

Mr. SCHAFER. Schafer is my name.

If I understand it correctly, this protestant's testimony will also be binding on me and I am cutting down time by undertaking to meet the protestants' case along with Oregon-California.

Now, I will not agree that the recitation of ten carriers, the names of ten carriers into this record will prove anything.

Board Member BROWN. Mr. Schafer, the objection is sustained until it is shown on this record that there are ten carriers.

Mr. SCHAFER. It will have to be shown further that they do business.

Board Member BROWN. When that is shown, why, you can recall Mr. Gritsch.

Mr. Berol, he will be available?

Mr. BEROL. Mr. Gritsch will be available.

Mr. FARRENS. Well, I didn't ask the question, but may it be considered that I have asked it, and if that may be so considered, then I want to note an exception.

Have I the Board and the Examiner's permission to
1358 consider that as my question?

Exam. KEPHART. I think it ought to be shown there are ten operators before the question is permissible.

Mr. JENNINGS. I will ask for an exception.

Chairman TERRIL. You may have the exception.

Mr. FARRENS. In support of that exception I want the record to show that whenever an offer of proof, the character of which Mr. Jennings has made, is made in this or any other case, that the question then becomes a relevant question and the basis is supported until and unless there is a failure of such proof.

Mr. BEROL. I want to assure you when such proof is made Mr. Gritsch will be available for examination and I will not object.

Board Member BROWN. That was the basis of the ruling.

Mr. SCHAFER. I, at this time, want the record to show that Division 5 has repeatedly held that the mere existence of rights is no proof of the adequacy of the service performed under those rights.

Board Member BROWN. The objection is sustained.

Chairman TERRIL. Did you have any other questions, Mr. Jennings?

Mr. JENNINGS. I have one more.

By Mr. JENNINGS:

Q. Were you here when Mr. A. Gritsch was testifying this morning?

1359 A. Yes.

Q. Did you understand him to testify that 25 percent of the north-bound freight was destined to the larger cities and 75 percent to the territory generally?

A. Yes, sir.

Q. Is that your understanding of the way the tonnage is split?

Mr. BEROL. Well, by the "larger cities" I presume you are confining yourself to his testimony of Portland, Seattle, and Tacoma?

Mr. JENNINGS. And Spokane, I believe.

Mr. BEROL. It didn't include Spokane.

The WITNESS. Not Spokane; it is port-to-port towns.

By Mr. JENNINGS:

Q. Portland, Seattle, and Tacoma?

A. Portland and Seattle mainly.

Q. You think that 25 percent of the business goes to Portland and Seattle, and 75 percent otherwise?

A. That is what it was in 1939.

Q. Is that your understanding of the way the tonnage splits?

A. Yes, my understanding; we checked it to find out.

Q. You wouldn't know what percentage of the population of the territory might be encompassed in those three towns, would you?

A. I don't think the population would have anything to do with the movement of the freight.

Mr. BEROL. He asked you if you knew, Mr. Gritsch.

1360 The WITNESS. No; I don't know exactly.

Mr. JENNINGS. That is all.

Chairman TERRIL. Any further cross-examination of the witness?

Mr. ELLIS. I have just one subject I don't think has been covered.

By Mr. ELLIS:

Q. I don't think this record yet shows how many schedules your company intends to operate between the Oregon Line and Portland over the respective highways. You testified you expect to give daily service in each direction over each highway, but do you expect to have a morning and an evening schedule out of Medford to Portland?

A. An evening schedule out of Medford to Portland?

Q. Yes.

A. If I get my intrastate in Oregon, I will; yes.

Q. You will have both a morning and an evening schedule north-bound from Medford?

A. If I get the intrastate operation between Portland and Medford, that will be correct; yes.

Q. If you get only interstate operating rights what would your practice be?

A. There wouldn't be an evening schedule out of Medford; no.

Q. You would operate only the one schedule a day?

A. No; there would be three or four schedules a day.

Q. But they would be morning schedules?

1361 A. That is correct; yes.

Q. And in the opposite direction how many schedules per day would you operate from Portland to Medford?

A. The same amount.

Q. Three or four morning schedules and no——

A. (Interrupting.) No; there will be some evening schedules. There will also be a morning schedule; one schedule leaves Portland 8 o'clock in the morning.

Q. About how many evening schedules?

A. There will be at least two.

Q. That is via the Medford route?

A. That is correct; yes.

Q. Now, how many schedules would you operate north-bound from Klamath Falls to Portland?

A. I would say one.

Q. And would that be a morning or evening schedule out of Klamath?

A. On the intrastate it would be an evening schedule and interstate it would be a morning schedule.

Q. Then, if you have only interstate rights, which of the schedules would you operate?

A. It would be morning.

Q. Now, with respect to your Marshfield service, how many schedules would you operate there?

A. At least——

1362 Board Member BROWN (interrupting). From where, Mr. Ellis?

Mr. ELLIS. From Medford.

The WITNESS. At least one a day; two if traffic requires it.

By Mr. ELLIS:

Q. Would that be a morning or evening schedule out of Medford?

A. It would be a morning schedule.

Q. And in the reverse direction how many schedules would you propose to operate from Marshfield or the Marshfield area to Medford?

A. There would be at least one; maybe two.

Q. That would be a morning or evening schedule?

A. It would be an evening schedule, afternoon schedule.

By Mr. FARRENS:

Q. Will you tell us how many schedules you propose to operate over the Willamette Highway from Portland to Klamath Falls?

A. On interstate or intrastate?

Q. Interstate?

A. There will be one daily.

Q. That would leave Portland morning or evening?

A. Evening, in the afternoon.

Chairman TERRIL. Mr. Gritsch, on that point do you propose to operate your Portland-Klamath Falls schedule over the Willamette Highway?

1363 The WITNESS. Yes.

Chairman TERRIL. Entirely?

The WITNESS. That is right; yes.

By Mr. ELLIS:

Q. Now, as I understand it, the schedules between Portland and Medford that you have mentioned will be conducted as a through operation of the six-wheel trailers. Will you operate additional schedules, truck schedules to serve territory such as Eugene and Salem?

A. No; not truck schedules.

Q. How will they be served?

A. On this combination of trailer and tractor or semitrailers.

Board Member BROWN. Now, we are still talking about the interstate, are we?

Mr. ELLIS. Still talking about the interstate.

Board Member BROWN. Yes, sir.

By Mr. ELLIS:

Q. Now, what other schedules, if any, do you propose to operate in Oregon, either from Medford, between Medford and Portland or between Klamath Falls and Portland that you haven't enumerated?

A. I don't think there is any more between Medford or Klamath Falls and Portland.

Q. Now, in addition to that, you do propose on-call schedules between San Francisco and Lakeview?

A. On-call? No; that will be a daily service.

Q. That will be a daily service?

1364 A. Correct.

Q. One in each direction daily?

A. That is correct; yes.

Q. At the present time the traffic which you move to Lakeview is handled on schedules which you operate to Klamath Falls where you interchange with Consolidated?

A. And Arrow Transit.

Q. Now, what, if any, change do you propose in the number of schedules which you operate between San Francisco Bay points and Medford and Klamath Falls?

A. I don't just understand.

Q. Will there be any change in the number of schedules which you operate under your new arrangements between the San Francisco Bay area and Medford and Klamath Falls respectively or will you continue the same number of schedules as you operate today?

A. I would say I would continue practically the same amount.

Q. Would you add any additional schedules between Sacramento and the Oregon connection points?

A. To Medford or to Klamath Falls?

Q. To either of them?

A. Oh, the schedule runs from Sacramento to Medford now every day.

Board Member BROWN. Would you add any additional schedules?

1365 The WITNESSES Well, it depends on the traffic.

Exam. KEPHART. Isn't that true of all your answers?

The WITNESS. That is correct; yes.

By Mr. ELLIS:

Q. Then, the only additional schedules so far as the operation between San Francisco Bay points and Oregon points are concerned, interchange points, such as Medford and Klamath Falls and Lakeview, would be the two additional schedules between here and Lakeview?

A. Well, it varies at the present time, the schedules between here and Medford. We have, as a rule, six trucks and six trailers daily operating north-bound into Medford and Klamath Falls, most of them going through Medford. Sometimes it runs ten a day; naturally on Saturdays there may be two or three. Saturday happens to be a lighter day here; it varies back and forth.

Q. But you anticipate no substantial change in those schedules by reason of the extension of operations proposed?

Mr. BEROL. By "change" does counsel mean the change in number or the change in time of arrival?

Mr. ELLIS. In number particularly and I intend to ask as to the time of arrival.

A. There wouldn't be any less, I would say.

Mr. FARRENS. May I interrupt here so there may be some common understanding as to what is meant by a schedule?

Mr. ELLIS. Yes.

1366 By Mr. FARRENS:

Q. If you have got an afternoon schedule leaving any given point that schedule may include either one unit of transportation or five or six, isn't that true, so that what you are really doing is operating one schedule with either one unit, or if there is more traffic than can be carried in one unit you are carrying overloads, 1, 2, 3, 4, 5, or 6 overloads?

A. That is correct; yes.

Q. So that a schedule involves all of the departures whether it be one unit or six units that go out in an evening, say?

Board Member BROWN. It involves all the traffic that is available at that particular time; is that correct?

A. That is correct.

Exam. KEPHART. Whether it is one or a dozen units?

The WITNESS. That is right; yes.

By Mr. ELLIS:

Q. As I understood your answer, you will run approximately the same number of units between the bay area and Medford and Klamath Falls as you are running today?

A. Well——

Board Member BROWN (interrupting). It depends on the traffic; isn't that obvious?

The WITNESS. Yes, sir.

By Mr. ELLIS:

Q. Considering the situation you have planned in the event of the extension of your operation?

A. I would take care of the volume of freight whether it

1367 took five schedules or two or ten.

Board Member BROWN. You mean five units?

The WITNESS. Or five units; yes.

By Mr. ELLIS:

Q. Do you propose to operate your California schedules to Medford or Klamath Falls at any higher speed than you are operating them today?

A. Oh, I don't think there will be any higher speed. We might be able to better the time a little bit by changing our operating facilities and the way we handle freight at the present time, if it is handled through ourselves.

Q. You mean you think you could get a little better efficiency on the part of the operation that you are now conducting?

A. That is right; yes.

Q. How much better do you think?

A. Well, I would hate to estimate that.

Q. But you say that would not be through operating your equipment any faster?

Board Member BROWN. He said that.

Mr. ELLIS. That is all.

Mr. BEROL. Now, if all the protestants have finished—or have they?

Chairman TERRIL. I have one additional question that I would like to ask.

Mr. Gritsch, harkening back to the Medford situation, Mr. Farrens asked a number of questions about unified control
1368 and this and that and the other and he went around the fringes of it.

I would like to ask you this question: Assuming that Consolidated Freightways or some other carrier who is serving out of Portland and the Northwest territory into Medford, was willing to enter into an arrangement for a unified control of the operation between San Francisco and Portland and the other northwest points, would you be willing to enter into such an arrangement?

Board Member BROWN. What do you mean by "unified control"?

Chairman TERRIL. You missed the cross-examination.

Board Member BROWN. Yes, I did; that is why I am asking. What do you mean by "unified control"?

Chairman TERRIL. Off the record.

(Remarks outside the record.)

Mr. BEROL. Do you understand the question, Mr. Gritsch?

Exam. KEPHART. Yes; he understands it all right in view of the cross-examination this afternoon.

A. Well, as far as I am concerned, I am willing to make through joint rates with any carrier at any point of interchange on any lines, always have done it, but as far as letting anybody take control, unified control of my business, I would say "no."

Exam. KEPHART. It wouldn't be the other fellow taking control; it would be both of you together, cooperation.

1369 Mr. SCHAFER. Who would be the manager?

Exam. KEPHART. That would have to be worked out.

Chairman TERRIL. You missed Mr. Farrens' cross-examination. I don't think we have to go back into that at this time.

Exam. KEPHART. It wouldn't be a one-line control; it would be joint control.

Mr. SCHAFER. A forced merger of some kind?

Chairman TERRIL. Let's don't——

Board Member BROWN (interrupting). I think that question should be cleared up.

Exam. KEPHART. He understood it, Mr. Brown, in the light of all the cross-examination.

Board Member BROWN. But I don't.

Exam. KEPHART. Why not let him answer it?

Board Member BROWN. I want to clear it up first.

By "unified control" do you mean a merger of the two companies or a control of the traffic?

Exam. KEPHART. Control of the traffic.

Board Member BROWN. Well, now, let the witness answer. Do you understand the question?

The WITNESS. Do you mean would I be willing for that kind of a——

Board Member BROWN (interrupting). Let's put it this way first: If you can control the traffic and could control
1370 the operations of the two companies insofar as the interchange of traffic is concerned, would that speed up the service?

The WITNESS. No; I don't think it would.

Mr. FARRENS. I am sorry, Mr. Brown, he has answered that question and said it would.

Mr. BEROL. Just a minute. That is what I was going to say. I am not satisfied that the witness understood the question.

The question, as I understood it, went to the point whether if you, the witness, had control of the traffic, in the operating practices of both lines, as to whether you then, having control, could speed up the services?

Board Member BROWN. That is the way I understood it.

Exam. KEPHART. That is not the question because that was gone into thoroughly this afternoon. This question is unified operation with each one having equal say.

Chairman TERRIL. Just a minute.

Mr. BEROL. If I may be permitted to——

Board Member BROWN (interrupting). Let Mr. Berol explain the question.

Mr. BEROL. I want a record that is clear. This afternoon on cross-examination the witness was asked the same question and he answered "yes." Now, I want to know whether he under-
1371 stands the question and whether he has changed his mind.

Chairman TERRIL. All right, Mr. Berol, if you will wait just a minute I will see if I can clarify this situation.

You remember the question of Mr. Farrens' on the question of unified control of the operations, do you not?

The WITNESS. I do.

Chairman TERRIL. Did you understand his question at that time as to what he meant by "unified control" of the operation by two carriers operating between San Francisco, one to Medford and the other from Medford to Portland?

The WITNESS. I understood it. If I would have control of it and operate it the way I would want to operate it, it would be the same as a through operation if I get the certificate on through.

Chairman TERRIL. Now, what I am asking you now is that if you could find either Consolidated Freightways or some other carrier who serves between the northwest area including Portland to Medford who was willing to enter into an arrangement permitting a unified control of the whole of the operation, whether you would be willing to enter into such an arrangement with that carrier who was of that mind?

The WITNESS. I would say, "yes, I would," but I would sooner have the through operation myself.

Exam. KEPHART. That is all right.

Chairman TERRIL. That is all.

1372 By Mr. ELLIS:

Q. Mr. Pierce informs me there is one feature of your operation that is not yet clear on the record.

Do you intend to operate a morning schedule out of San Francisco to Portland by way of Medford?

Mr. BEROL. He has so testified.

By Mr. ELLIS:

Q. A morning schedule out of San Francisco to Portland by way of Medford?

A. Yes.

Q. Do you also intend to operate a morning schedule out of San Francisco to Portland by way of Klamath Falls?

A. No; not by way of Klamath Falls.

Board Member BROWN. I have one more question. Mr. Gritsch, would you have filed your application if Consolidated Freightways had not filed its?

The WITNESS. No; I wouldn't have.

Chairman TERRIL. I think that is all, Mr. Gritsch.

We will adjourn until 9 o'clock tomorrow morning.

Mr. IVERS. Mr. Terril, I don't like to do this, but I had a witness who I had come up here at 3:30 this afternoon in anticipation. He cannot come back again. I would like to have him testify; otherwise, I will just lose his testimony.

Exam. KEPHART. As advisor to the Board I suggest that we have a night session tonight in order that we shall not be in a jam at the close of these two cases.

Chairman TERRIL. Off the record.

1373 (Remarks outside the record.)

Chairman TERRIL. On the record.

Mr. IVERS. I withdraw my request in view of the situation.

Chairman TERRIL. We will stand adjourned until 9 o'clock in the morning.

(Whereupon at 5:25 o'clock p. m. the hearing was adjourned until 9:00 a. m. August 8, 1940.)

1374 Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC-8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA,
August 8, 1940. 9 A. M.

Before Joint Board No. 5: C. T. TERRIL, Chairman; WARREN K. BROWN, C. I. KEPHART, Examiner.

Hearing resumed.

1375 Appearances: Same as heretofore noted.

PROCEEDINGS

Chairman TERRIL. At this time I will call Docket No. MC 9115 (Sub. No. 1), application of Oregon-Nevada-California Fast Freight, Inc.

The hearing in this matter will be adjourned to a time convenient to all parties.

(Whereupon a recess was taken in the above entitled matter after which, at 5:15 p. m., further proceedings were had as follows:)

Mr. BEROL. May I ask at this time that Docket No. MC 9115 (Sub. No. 1) be reopened?

I want to call to the attention of the Board, and all parties, that several days ago when we were on that docket I said that there was one witness that was not available at that time, but would be available this afternoon. He is an out-of-town witness and he is here: and if the Board and counsel will accord me the courtesy of permitting me to reopen this docket, and put him on, I would be most grateful.

Chairman TERRIL. I believe, Mr. Berol, that the matter was continued from time to time at the convenience of all parties this morning and it is not a question of reopening but the resumption of the continued hearing.

1376 Mr. BEROL. May I proceed in Docket No. MC 9115 (Sub. No. 1)?

Chairman TERRIL. Is there any objection on your part, Mr. Schafer?

Mr. SCHAFER. No. I have already indicated to counsel I would accommodate him.

Chairman TERRIL. You may proceed.

Mr. BEROL. I will call Mr. Stone.

W. G. STONE was sworn and testified as follows:

Direct examination by Mr. BEROL:

Q. Will you state your full name for the record, please?

A. W. G. Stone. I am manager of the Transportation and Industrial Department at the Sacramento Chamber of Commerce, 917 S. 7th Street, Sacramento.

Q. Will you state briefly what your transportation experience has been?

A. I have held my present position for the past eight years. Prior to that time for 20 years I was traffic manager of the Thomson-Diggs Company, wholesale hardware distributors, at Sacramento. I have had a total of 37 years' transportation experience.

Q. And in the course of your transportation experience you have testified before this and other Commissions?

A. I have.

1377 Q. Are you familiar in a general way with the nature of the application of the Oregon-Nevada-California Fast Freight pending here?

A. I am.

Q. Has that application been made the subject of consideration by the Traffic Committee of your Chamber of Commerce?

A. It has.

Q. And are you here testifying on behalf of the Sacramento Chamber of Commerce?

A. That is true.

Q. Now, will you state, Mr. Stone, as to what portions, if any, of this application is of particular interest to you and to the Sacramento people on whose behalf you are testifying?

A. We are interested in the proposed service of the Oregon-Nevada-California Fast Freight from Sacramento to Lakeview, Oregon, and to points north of Medford, Klamath Falls, and Eugene, points which are north of Medford; and, furthermore, in the event the application is granted there is a need for a transportation service from Sacramento to Crescent City in the extreme northwestern portion of California.

Q. With respect to the problem of Crescent City, is there an operator operating between Crescent City and Grants Pass?

A. I understand there is.

Q. And have you discussed with the applicant the proposition as to whether, in the event the application is granted, and

1378 it is authorized to serve Grants Pass, it is the applicant's intention to inaugurate joint rates with that operator?

A. I suggested to the applicant that it would be most helpful to us, if this application was granted, if such a joint through service and rate structure could be provided from Sacramento to Crescent City.

Q. Particularly with respect to the applicant's proposed service between Sacramento and Lakeview, what comments have you to make with respect to the necessity or desirability of that service being made available to Sacramento?

A. We have a large number of manufacturers and wholesale distributors at Sacramento who are in need of an improved service from Sacramento to Lakeview. The proposed service will give us next-day delivery after shipment is made from Sacramento.

The tendency today is toward hand-to-mouth buying. A retail dealer places an order with our wholesaler and he wants delivery of that shipment as quickly as possible. In fact, they sometimes order today merchandise they wanted yesterday. The fastest service available is what is desirable and what is necessary.

Q. What transportation facilities are available to you at the present time between Sacramento and Lakeview?

A. We have both rail and truck transportation service. They are both rather slow, however, and involve several handlings
1379 in transit.

The proposed service, of course, will be direct service from Sacramento and a faster schedule.

Q. Are you prepared, based upon your own knowledge, to compare the schedule as proposed by the applicant with the existing schedules of existing carriers?

A. Well, it is my understanding that the proposed service would provide a delivery at Lakeview the next afternoon after shipment is made from Sacramento. For example, a shipment made from Sacramento on Monday would be delivered in Lakeview Tuesday afternoon around 3:00 or 4:00.

The present service is slower than that. The fastest service we have been able to obtain is movement via Klamath Falls, joint service, arriving on the second day.

The rail service is slower still. That service also moves via Klamath Falls thence back to Alturas, and thence from Alturas up to Lakeview. A shipment made from Sacramento on Monday would not be delivered until Wednesday or Thursday, usually Thursday morning, in Lakeview.

Q. Is there any transportation facility available at the present time between Sacramento and Lakeview that accords a type of service comparable by that proposed by this applicant?

A. Not to my knowledge.

Q. Is such a service necessary to you?

A. Indeed it is. As I said, a retail dealer today carries
1380 a smaller stock than was the case in the past. In fact, I recall when I was with the Thomson-Diggs Company years ago when the merchants in Lakeview would carry large stocks. They would place an order and buy in large quantities. Today they place an order and they want it as quickly as possible. It is a smaller quantity of merchandise. They rely on the wholesaler to carry the merchandise stock on hand and obtain their requirements daily from that wholesale stock. That requires a fast service between Sacramento and Lakeview.

Q. Is there any traffic moving between Sacramento and Lakeview at the present time?

A. Yes; there is traffic moving; but some of our wholesalers are not doing the volume which they did in the past and they attribute that to the slower service.

Q. What effect would the proposed operation, if instituted, have upon the amount of traffic moving between Sacramento and Lakeview?

A. In my opinion it would materially increase the traffic.

Q. Now, with respect to the application, in so far as it contemplates service between Sacramento on the one hand and points north of Medford, what have you to say in regard to that proposal?

A. The same situation holds true. They want faster service.

Q. Now, have you had any experience with the Oregon-Nevada-California Fast Freight?

1381 A. I have.

Q. Over how long a period of time?

A. Well, I don't know the exact period of time; several years.

Q. Based upon that experience and your judgment, is the applicant a reliable, dependable transportation agency?

A. Yes, sir.

Q. And it is the view of yourself and of your Chamber that if the service were authorized and instituted it would materially aid Sacramento?

A. It would.

Q. Is there anything you desire to add to your testimony, Mr. Stone?

A. Yes. We would like to urge the Commission to grant this application and, if granted, our shippers would use it.

Mr. BEROL. I think that is all. You may take the witness.

Chairman TERRIL. Have you had any experience with the Oregon-Nevada-California Fast Freight as a shipper yourself?

The WITNESS. Yes. At the time I used this service it was not the Oregon-Nevada-California Fast Freight, the existing organization.

Chairman TERRIL. But the same line and the same service that is now carried on by the preesnt corporation?

The WITNESS. Yes. Our shippers of Sacramento have used the service and they are well pleased with the service

1382 whenever they have used it, both in Nevada and where it has been used in interstate transportation.

Chairman TERRIL. Mr. Stone, would the traffic that you anticipate would move from Sacramento to Lakeview be in addition to that which is now moving by these slower methods of transportation?

The WITNESS. It would tend to restore business which we have lost. At one time Sacramento did a very substantial volume of business in Lakeview. In recent years that has been dwindling more or less.

Chairman TERRIL. At the expense of what community would that traffic be diverted?

The WITNESS. We are competitive with anybody that does business in Lakeview.

Chairman TERRIL. But, generally speaking, from what area would that traffic be drawn?

The WITNESS. I couldn't say just from what territory it would come. We are competitive with Portland, Oregon, we are competitive with Klamath Falls, we are competitive with San Francisco; and there are eastern shipments which also move, and we are competitive with eastern shippers to some extent.

Chairman TERRIL. Do you have any information as to the tonnage that is moving out of Sacramento to Lakeview at the present time?

1383 The WITNESS. I have no definite figures on that.

Chairman TERRIL. Do you have any estimate that you can give?

The WITNESS. No; I wouldn't want to hazard a guess on that.

Chairman TERRIL. I understand you are not a shipper yourself, but I would like to have that information if you have it.

The WITNESS. I don't have those figures. My contact with our shippers—I might explain it this way. We have a regular monthly meeting at Sacramento of our shippers and there discuss, or they discuss with me, as manager of the Transportation Department, their transportation problems. If they have difficulty in holding their business in any particular territory, if they find they need more improved service, they call that to my attention. I keep in close contact with them in that manner. Our shippers, quite a number of them, have complained about the slow service into Lakeview.

Chairman TERRIL. Would your answers be similar if directed to the traffic that moves into Oregon over U. S. Highway 99 to Oregon points?

The WITNESS. Our service as far as Medord is very good. North of Medford the proposed service would be an improvement.

Chairman TERRIL. In regard to the diversion of business, however, would your answers be similar to those involved in

1384 the Lakeview situation?

The WITNESS. Yes; same competition.

Chairman TERRIL. You may cross-examine.

Cross-examination by Mr. ELLIS:

Q. Do the merchants of your city use truck service at the present time in shipping north to points in Oregon, Medford and north?

A. They do.

Q. Do you know what truck service they are using at the present time?

A. It all depends upon the destination.

Q. To points on Highway 99 in Oregon?

A. We use the Oregon-Nevada-California Fast Freight as far as Medford and Klamath Falls.

Q. Is Medford an important point as far as your shippers are concerned?

A. Beyond Medford they use the Oregon-Nevada-California Fast Freight and connecting carriers.

Q. Is Medford an important point of shipment so far as your merchants are concerned?

A. Yes.

Q. How is your service to Medford at the present time?

A. The present service to Medford is satisfactory. It is overnight service.

Q. It meets your present needs, does it?

1385 A. It is quite satisfactory.

Q. You have used the Oregon-Nevada-California, in conjunction with Consolidated Freightways, to points north of Medford, as I understand your testimony.

A. That is true.

Q. Has that reasonably met the needs of your merchants as far as you know?

A. The proposed service, I understand, would be an improvement in that it would provide an earlier delivery.

Q. And except for that interest in an earlier delivery has the past service reasonably met your needs?

A. Oh, I would say so. The proposed service, however, would be an improvement over that service and that is the reason we support it.

Q. Are you familiar with the manner in which the proposed service is to be improved? Do you know how the improvement is to be brought about?

A. Direct service from Sacramento; one line, one carrier.

Q. Is it the one line service that you are interested in, or is it the removal of the present delays at Medford?

A. We would like to have the benefits of the Oregon-Nevada-California Fast Freight service all the way through to those Oregon points.

Q. Are you saying that because you want a through service or is it because you want the Oregon-Nevada-California Fast

1386 Freight regardless?

A. Both. I want a through service and I want the Oregon-Nevada-California Fast Freight service. We have used this service in the past and it has been very satisfactory, and we would like to have the benefit of that service beyond that point to the territory that we serve.

Q. Would the same kind and quality or services as the Oregon-Nevada-California Fast Freight are proposing to you if offered to you by another carrier operating under another name, would that serve your transportation needs?

A. It might, but we prefer the Oregon-Nevada-California Fast Freight.

Q. You would have a preference for them, no matter what the quality of other service might be?

A. We prefer the Oregon-Nevada-California Fast Freight.

Q. Now, are you familiar with the service now being rendered by the Pierce Auto Freight Line——

Mr. BEROL (interrupting). Out of Sacramento?

By Mr. ELLIS:

Q. Yes; from San Francisco Bay points to Portland via Sacramento?

A. I believe we have had little, if any service, from them—not to my knowledge.

Q. Did you know that they were giving through daily service without transfer of lading at Medford from Sacramento to Medford and points north?

1387 A. Our shippers have not indicated to me that they are using that service.

Q. Did you know such a service was available?

A. Not from Sacramento.

Q. Now, you have expressed an interest in joint rates from Sacramento to Crescent City, I believe. Are you again particular as to what carirers should participate in those joint rates?

A. We want a fast through service from Sacramento to Crescent City and we suggested to the Oregon-Nevada-California Fast Freight it might be possible to work out a joint rate arrangement and they assured us if their application was granted they would be in a position to do so.

Q. In that case you would be satisfied with a joint rate arrangement and would not expect a thorough service?

A. A through service with one carrier is always preferable. When that can not be obtained the next best, of course, is a joint service.

Q. Would you be satisfied with such a service given by Pierce Auto Freight Line in conjunction with a carrier between Grants Pass and Crescent City?

A. It would depend on the service and schedule they offered.

Q. Have you made any effort to induce any of the carriers now serving that territory to give you such a joint rate or joint through service?

1388 A. No. The only suggestion I made was to the Oregon-Nevada-California Fast Freight.

Q. That didn't go up until you were approached to testify in this case, did it?

A. It came to my attention when this improvement in service

was suggested. I immediately suggested to them that that might be the means of improving our service into Crescent City.

Q. Do you know whether you have any joint rates and through routes at the present time between Sacramento and Crescent City, California?

A. Yes; we have service from Sacramento to Crescent City.

Q. And under joint rates and through routing arrangements?

A. Yes; we have.

Q. Now, you have held your present position, I understand, for the past eight years?

A. That is true.

Q. Do all matters relating to transportation come directly under your supervision and control?

A. They do.

Q. That has been true during this period of eight years?

A. That is true.

Q. Do you recall being approached last October by the Pierce Auto Freight Line, who proposed to give daily through service between Portland and San Francisco, with a request that you furnish to them certain data concerning your transportation needs
1389 and your shipments and that you volunteered, in response to their letter, that you already had sufficient transportation service and didn't need a through operation?

A. I don't recall making that type of reply, although I do know that I was approached some time during last year by the Pierce Auto Stage people.

Q. Do you deny you made such a reply to the Pierce Auto Freight Line no later than last October?

A. I couldn't state just exactly what was in that reply at the moment.

Mr. ELLIS. That is all.

By Mr. HICKSON:

Q. Mr. Stone, you mentioned in your direct testimony that Sacramento merchants had a need for service to points in Oregon north of Medford. Now, would you mind telling us how far north, that is, what would be the most northerly point you would want to serve when you have need for service out of Sacramento to Oregon?

A. We have some shippers that go as far as Portland, Oregon, and even beyond that.

Q. Would you have shippers shipping to points at Eugene, Albany, and Salem?

A. We do considerable business at Grants Pass, Eugene, and some business to points beyond.

Q. Now, did you know or were you informed by the applicant

that he did not propose to render any service to any points north of Drain, Oregon?

1390 Mr. BEROL. That isn't right. The stipulation contemplates—

Mr. HICKMAN (interrupting). I think you are right. I will withdraw the question.

By Mr. HICKSON:

Q. Now, going back to your testimony with reference to service to Crescent City, I understand that if this service is inaugurated as now proposed it would eliminate transfer of cargo at Medford, but you would still have the interchange of cargo at Grants Pass; isn't that true?

A. Yes, sir.

Q. And you will need service of a local carrier from Grants Pass over to Crescent City?

A. We would.

Q. You will need that service by virtue of the fact that this applicant will not run to Crescent City and Grants Pass?

A. That is true.

Q. Do you propose, and do the merchants of Sacramento propose to serve any other points other than Crescent City on the Coast?

A. Yes.

Q. North of Crescent City and south, or both?

A. Both—well, I would say south.

Q. How far south.

A. All the way down the Coast.

Q. Well, would you still propose to serve that through Medford?

1391 A. My only suggestion was to serve Crescent City through Grants Pass.

Q. Do you have any movement to points such as Brookings and Gold Beach, in Oregon, or Smith's River in California, north of Crescent City?

A. There is a limited amount of business from Sacramento in that territory. We have a substantial volume of business into Eureka and only a limited amount of business between Eureka and Crescent City.

Q. How are you getting your merchandise into Eureka at the present time?

Mr. BEROL. I object to the question as incompetent, irrelevent, and immaterial.

Mr. HICKSON. The purpose of the question is to show that this witness and his shippers are going to require the service of local carriers now rendering service over U. S. Highway 101.

Chairman TERRIL. The objection is overruled. Let the witness answer.

The WITNESS. May I have the question?

Chairman TERRIL. Read the question, Mr. Reporter.

(The question referred to was read by the reporter as above recorded.)

A. We have two methods of transportation; we use the rail carriers, and we also use truck carriers.

1392 By Mr. HICKSON:

Q. Do you use the service of Intercity?

A. Yes, sir.

Mr. BEROL. Object to the question on the ground that it involves traffic that is intrastate character and not interstate.

By Mr. HICKSON:

Q. How far north of Crescent City do you require service on U. S. Highway 101?

A. Crescent City is the most important point for us.

Q. You have shipments to points north of Crescent City?

Mr. BEROL. If it will shorten matters I am willing to stipulate that the local carriers between Crescent City and Coquille, or whatever point it is that counsel is interested in, are needed.

Mr. HICKSON. Good. That is all.

Chairman TERRIL. Thank you, Mr. Berol. Are you through, Mr. Hickson?

Mr. HICKSON. Yes, sir.

By Mr. FARRENS:

Q. Mr. Stone, specifically what consideration did the Traffic Committee of the Chamber of Commerce give to your appearing at this hearing to testify on behalf of this applicant?

A. That matter was discussed at our regular monthly meetings on two different occasions. Our shippers who were interested in this service called our attention to it and felt that we should support this application in order that they might have

1393 the service that they needed.

Mr. FARRENS. I move to strike the answer as not responsive.

I asked about the consideration given by the Traffic Committee of the Chamber of Commerce, which was his source of authority for coming here, referring to his direct testimony.

Mr. BEROL. His answer was directly responsive. He stated that it had been considered by the committee on two different occasions at two different meetings.

Mr. FARRENS. He said meetings of the members.

The WITNESS. Our Traffic Committee, if I may explain, con-

sists of our shippers who are interested in this service. Our Traffic Committee is composed of shippers.

By Mr. FARRENS:

Q. Is your Traffic Committee made up fully of shippers who are interested in this service?

A. No. It is made up of some fifty or sixty shippers in Sacramento.

Q. Do you have a Traffic Committee which is named by name and designated as such?

A. It is known as the Transportation and Industrial Committee of the Chamber of Commerce.

Q. And are there fifty or sixty members of that committee?

A. In the neighborhood of fifty or sixty members; yes.

Q. Now, was it at a meeting of that committee where there was a vote taken authorizing you to appear at this hearing in
1394 support of this application?

A. As I say, we have our regular monthly meetings and it was discussed on two different occasions, and as late as this morning the executive committee of the Traffic Committee instructed me to appear here and testify in support of this application.

Q. Let us take this thing one at a time. Was there a vote taken—when was the meeting of the Traffic Committee, consisting of fifty or sixty members, held at which consideration was given to this subject?

A. The last meeting, I believe, was on July 15 or thereabouts; the middle of July.

Q. Was there a resolution offered and adopted by the majority vote of that meeting instructing you to appear as the representative of the Chamber of Commerce on behalf of this applicant?

A. We don't handle our transportation matters in that manner.

Q. Then the answer is "No such vote was taken"?

A. No. We took a vote, but didn't adopt a resolution.

Q. Was there a motion or any other sort of a proposition adopted by a vote of the majority members of the Transportation Committee authorizing you to appear as a representative of the members at this meeting?

A. Yes. There was a vote taken and it was unanimous. There wasn't a dissenting vote.

1395 Q. What was the proposition upon which the vote was unanimous?

A. That we support the application of the Oregon-Nevada-California Fast Freight in this proceeding.

Q. That was taken on the date in July which you have just mentioned?

A. Yes; the last regular meeting of the Traffic Committee.

Q. Was that the only vote which was taken on the subject at a meeting of the Traffic Committee?

A. Yes, sir; I would say so. It was discussed at a previous meeting and was held over until the July meeting.

Q. How many of the fifty or sixty members attended that meeting in July?

A. I would say approximately twenty.

Q. Was it a formal action of your executive committee of the Transportation Committee which was taken yesterday?

A. No. It was handled over the telephone.

Q. Between you and what person?

A. And our executive committee.

Q. Was the executive committee in session at the time you were telephoned to?

A. No; it was not.

Q. Well, was there formal action by the executive committee directing you to come here?

A. We took a poll of the committee over the phone.

Q. And was the action of the committee unanimous, or did
1396 you poll them all?

A. I think there were five out of seven that were polled; the other two were out of town.

Q. Those five all directed you to come here to testify?

A. They did. I might also state that, in addition to that, it wasn't necessary, but in addition to that our president and the secretary-manager approved as late as noon today.

Q. Did you and your Chamber, your Traffic Committee acting in the interest of yourself, induce the Southern Pacific Company some time back to put on the overnight rail service between Sacramento and Klamath Falls and Medford?

A. They came to me and wanted to know if that would be an improved service and I assured them that it would. Our Sacramento traffic moves on a passenger train, I believe.

Q. Did your Traffic Committee of your Chamber of Commerce go on record as desiring that service and so advised the Southern Pacific Company.

A. That was handled in a similar manner. It was discussed. There was no definite action taken with respect to it. It was discussed at one of our regular traffic meetings and I pointed out to them that the Southern Pacific had in mind improving the service and our shippers felt that that improvement would be helpful and we so advised the Southern Pacific Company.

Q. The action taken by the Transportation Committee of your Chamber of Commerce respecting the proposal to put on that over-

1397 night service was in favor of it in the same manner in which they are now in favor of this application?

A. We want improved service. We are looking for improved service.

Q. The answer is "yes"?

A. Yes; certainly.

Q. Are you sufficiently familiar with the traffic situation at Sacramento to be cognizant of the fact that overnight rail service which was put on between Sacramento, Medford and Klamath Falls, is now operating very light?

Mr. BEROL. To which I will object on the ground that it is incompetent, irrelevant, and immaterial as far as these issues are concerned. There is no proposal here to add a service between Sacramento, Medford and Klamath Falls by this applicant.

By Mr. FARRENS:

Q. I might add also that that overnight service goes to Grants Pass, doesn't it, Mr. Stone?

Mr. BEROL. I take it the other question was withdrawn?

Mr. FARRENS. For the moment; yes.

A. It goes to Medford. I believe it goes to Grants Pass; but I am not sure about Grants Pass.

Q. That is correct. You may assume that for the purpose of this question—it does go to Grants Pass.

A. Arriving at Grants Pass at approximately noon with delivery some time in the afternoon, if my understanding is correct.

1398 Q. Now, are you cognizant of the traffic conditions down there to the extent that you know that this overnight train service to Medford, Grants Pass, and Klamath Falls is running pretty light?

Mr. BEROL. Object to the question insofar as it includes Medford and Klamath Falls for the reasons stated in my previous objection.

Mr. FARRENS. If the Board please, the service goes as a whole and it is not a question of serving Klamath Falls and Medford. It is a question of serving Grants Pass as well, and Lakeview is handled over that same service.

By FARRENS:

Q. You realize that, do you not, Mr. Stone?

A. Our Lakeview traffic moves in a passenger train car to Klamath Falls, arriving in Klamath Falls, I believe, about 10:00 or 11:00 the next morning. Then it moves by freight train that afternoon down to Alturas and the following day moves up to Lakeview and the next morning it is delivered.

Q. Are you aware that that overnight rail service is being lightly patronized at the present time?

A. I really couldn't say.

Mr. BEROL. Would anybody be surprised if it was with that kind of a service?

By Mr. FARRENS:

Q. Would you or your Chamber, or your Traffic Committee be at all concerned if the overnight service from Sacramento to
1399 Medford, Grants Pass, and Klamath Falls lost enough business by reason of the extension here sought so that it would be discontinued?

A. We would not want to see that service taken off, but in my opinion it would not be taken off.

Q. Was it suggested to the members of your Traffic Committee, or the executive committee of your Traffic Committee, or the president or secretary of your Chamber of Commerce that such a result might follow?

A. We didn't feel it would.

Q. Was the subject given any consideration, Mr. Stone, was it mentioned before any of those bodies or to any of those people that such a possibility might result?

A. We did not discuss that possibility. We discussed the service as it exists today and the proposed offer of service, which is an improvement, and the improved service was so necessary that our shippers felt we should support it. We did not feel, however, it would have the effect of cancelling our existing service. We didn't go into that.

Q. Mr. Stone, if it were true that the extension here proposed would result in the loss of that overnight rail service, do you think that that might alter the views of some of the members of your Traffic Committee or of your executive committee?

Mr. BEROL. I object to the question on the ground that it assumes facts not in evidence, namely, that it is liable to eliminate
1400 that overnight train service; and on the further ground that it is prejudicial; and on the further ground that it is calling for a conclusion of the witness as to what the views of some other people might be under a given set of circumstances.

Mr. FARRENS. I will withdraw the question for the moment.

By Mr. FARRENS:

Q. In your opinion, Mr. Stone, would the installation of the service which is here proposed between Sacramento and Lakeview, and between Sacramento and Grants Pass, have a tendency to take any business away from the overnight rail service which the Southern Pacific now is maintaining between Sacramento and Medford, and Grants Pass and Klamath Falls?

A. An improved service might divert some traffic.

Mr. BEROL. May I ask a question at this point, counsel?

Mr. FARRENS. Yes.

Mr. BEROL. Would that diversion, if at all, be likely to be as to Medford or Klamath Falls, or would it be likely to be as to Grants Pass or Lakeview?

The WITNESS. It would divert the Lakeview traffic.

Mr. BEROL. It would have no effect on the Medford or Klamath Falls service, would it?

The WITNESS. I doubt very much if it would divert very much.

By Mr. FARRENS:

1401 Q. If it diverted Lakeview traffic on the overnight train between Sacramento and Klamath Falls, it would take exactly that much traffic away from that particular overnight service?

A. It would take it out of the Klamath Falls car.

Q. You will agree with me that consideration of that feature was not given in connection with the action which was taken to cause you to come here to this hearing?

A. Our shippers were concerned in obtaining the benefits of this improved service in order that they might be more competitive in that territory.

Q. Now, if as you stated on direct, the proposed service from Sacramento to Lakeview would increase the traffic between Sacramento and Lakeview, from what present transportation systems would that traffic be diverted?

A. We hoped to improve the volume of business that we were doing in Lakeview, develop traffic, develop business which we are not now enjoying.

Q. You conceded it would take away the railroad traffic which is hauled on the overnight service between Sacramento and Medford, that is, Klamath Falls, and destined to Lakeview. Is there a truck line operating from Sacramento via Alturas to Lakeview?

A. No.

Q. And you have no truck service at all?

A. No.

1402 Q. There is a truck service presently operating via Klamath Falls and thence via Consolidated Freightways to Lakeview?

A. That is true.

Q. And would it, in your opinion, take that traffic away from Consolidated Freightways between Klamath Falls and Lakeview?

A. Manifestly, the direct service would be more attractive to the shippers.

Mr. FARRENS. I think that is all.

By Mr. IVERS:

Q. Mr. Stone, what wholesale distributing area now serving

Lakeview has more expedited service into that town than Sacramento has?

A. Klamath Falls has a faster service into that area; Portland, Oregon has as good or better.

Q. Has Portland, Oregon a better service into Lakeview than Sacramento has?

A. I believe their deliveries are made a little earier than ours, although I have no definite information on that subject. My understanding is that they do make delivery a little earlier, on an earlier truck from Klamath Falls to Lakeview than on which our shipments move, although I have nothing definite on that to give you at this time.

Q. You indicated that San Francisco was a point of competition in the Lakeview area. San Francisco has no faster service than that available to you, has it?

A. No; not that I know of.

1403 Q. Do you know that the Los Angeles-Seattle Motor Express is rendering any service from Sacramento to points north of Medford?

A. Yes; on the perishable commodities, I believe.

Q. Don't you know they are rendering service on general commodities?

A. We have shippers that are using it on perishables. I don't know of it being used to any great extent on other commodities.

Q. Do you know that it is rendering a through daily service?

A. I know they are going through quite regularly, but whether it is daily or not I can't say.

Q. Well, have you made investigation in the course of your duties as traffic manager for the Chamber of Commerce or manager of the Transportation Department, to ascertain what service the Los Angeles-Seattle Motor Express is rendering through there?

A. I made no investigation of it.

Q. And you are not now familiar with it?

A. No.

Mr. IVERS. That is all.

Mr. JENNINGS. I would like to ask a question.

By Mr. JENNINGS:

Q. Are you familiar with the service of the Cascade Fast Freight rendered between Sacramento and points north of Medford?

1404 A. No.

Q. Are you familiar with the service of the Colletti Fast Freight?

Mr. BEROL. To which—go ahead.

A. No.

By Mr. JENNINGS:

Q. Or of the Pacific Refrigerated Motor Line?

A. No.

Q. Or of the Pacific Coast Motor Lines?

A. No.

Mr. BEROL. Just a minute. In addition to all the mass of alleged service existing in the area, counsel certainly is not saying Pacific Coast Motor Lines is authorized to serve Sacramento?

Mr. JENNINGS. I believe what you are referring to is the fact that they have an order to operate over 101 to which, I understand, exceptions have been taken. If I am mistaken about that I will withdraw that line, that particular line of questioning. But I believe exceptions have been taken to the order. I believe they are operating on 99. I might be mistaken.

Mr. SCHAFER. Is this Bothwell?

Mr. JENNINGS. It is Battaglia.

Mr. SCHAFER. I think you will find the Pacific Coast Motor Lines out of business and Battaglia is leasing the
1405 rights of Bothwell, and Division 5 has been petitioned for a reconsideration and that was denied.

Mr. JENNINGS. If that is true I will withdraw the question. It was my understanding that they were operating under an exception. If that isn't true I will withdraw the question.

By Mr. JENNINGS:

Q. But you are not familiar with any of those other lines, other than the one?

A. No.

Mr. JENNINGS. That is all.

Mr. HICKSON. The questions propounded by Mr. Parrens suggest one or two questions I would like to ask.

By Mr. HICKSON:

Q. I believe you testified, Mr. Stone, that if this service was inaugurated it was your expectation that Sacramento would recapture some business now moving into Lakeview from Portland and points in Oregon, did you not?

A. I testified we hoped we would recover some business which we had lost.

Q. And that would come from Portland, I believe you suggested?

A. Not necessarily. It might come from other sources.

Q. It would come from some point in Oregon, would it not?

A. It might.

Q. And by virtue of that fact isn't it also true that whatever

traffic was derived from that area, whatever business was diverted from that area to Sacramento, would result in taking
1406 that traffic away from the carriers who are now rendering service and hauling that freight from Portland to Lakeview, such as Cascade Freight Lines and other carriers?

A. It might result in some such division. In fact, we had the traffic at one time and we lost it to Portland and this means we might recover it.

Mr. HICKSON. That is all.

Redirect examination by Mr. BEROL:

Q. Mr. Stone, the metnod that you described in receiving the instructions of your Chamber and committee to appear here and testify, is that the usual procedure followed by your Chamber in cases of this kind?

A. It is.

Q. It is the procedure that has been followed for a number of years?

A. It has been followed for the past eight years.

Mr. BEROL. I think that is all.

Chairman TERRIL. We stand adjourned until 9:00 tomorrow morning.

(At 6:25 p. m. August 8, 1940, the hearing was adjourned subject to further call by the Commission.)

1407 Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience and necessity, Form B.M.C.-8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California, and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA,
August 10, 1940, 5 p. m.

Before Joint Board No. 5: C. T. Terril, Chairman; Warren K. Brown, C. I. Kephart, Examiner.

Hearing resumed.

1408 Appearances: Same as heretofore noted.

PROCEEDINGS

Chairman TERRIL. Let the record show that the proceeding in the application of Oregon-Nevada-California Fast Freight, Inc., Docket No. MC 9115, Sub. No. 1, is continued to a time and place later to be determined by the Interstate Commerce Commission.

(Whereupon at 5:02 p. m. August 10, 1940, the hearing was adjourned subject to furtner call by the Commission.)

1409 Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannon Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC–8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California, and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA,
October 15, 1940, 10:05 A. M.

Before Joint Board No. 5: C. T. Terril, Chairman; Warren K. Brown, Joseph Starin, H. L. Hanback, Examiner.

Hearing resumed.

1410 Appearances: Same as heretofore noted.

Additional appearances: Arthur H. Glanz, 111 West Seventh Street, Los Angeles, California, appearing for Colletti Fast Freight, Protestant.

PROCEEDINGS

Chairman TERRIL. Let us be in order, gentlemen. We will proceed.

The Interstate Commerce Commission has assigned for further hearing at this time and place No. MC 9115, Sub. No. 1, the same being the application of Oregon-Nevada-California Fast Freight, Inc., of San Francisco, California, to be heard before Joint Board No. 5, which consists of representatives of the States of Washington, Oregon, and California; State of Washington today being represented by Joseph Starin, Attorney, representing the Washington Department of Public Service; C. T. Terril, Attorney-Examiner, representing the Public Utilities Commission of the State of Oregon; Warren K. Brown, of California, representing the Railroad Commission. Mr. Brown is not present at this time, but will be here later, I understand; and H. L. Hanback, Examiner, representing the Interstate Commerce Commission, being present to assist the Joint Board in the development of the record.

There is likewise assigned at this time and place for further hearing the application of Consolidated Freightways,

1411 Inc., of Portland, Oregon, MC 42487, Sub. Nos. 15, 18, 19, and 20—is that correct, Mr. Schafer?

Mr. SCHAFER. Yes.

Chairman TERRIL (continuing). The same being heard before Joint Board No. 11, consisting of the representatives of Oregon and California. The State of California is represented by Warren K. Brown of the California Railroad Commission. Oregon Public Utilities Commission is represented by C. T. Terril, Attorney-Examiner; and H. L. Hanback, Examiner, represents the Interstate Commerce Commission to assist in the development of the record.

Are there any appearances to be entered in either of these matters which were not entered at the previous hearing?

Mr. GLANZ. I would like to enter an appearance for Colletti Fast Freight, the business owned and operated by A. Colletti. My name is Arthur H. Glanz, 111 West Seventh Street, Los Angeles, California. I have been admitted to practice before the Commission. Colletti Fast Freight appears as a protestant in both cases.

Chairman TERRIL. Any other appearances?

Mr. KENDALL. Jackson W. Kendall, 1335 South Figueroa Street, Los Angeles, California; appearing for the California Van & Storage Association in my executive capacity as Chairman of the Committee on Regulatory Affairs. I have not been admitted to
1412 practice before the Commission, but am a duly authorized officer of the Association.

Chairman TERRIL. You are appearing in which case?

Mr. KENDALL. We are appearing in the matter of Consolidated Freightways, having heretofore made an appearance in the other case. The appearance today is in protest to the inclusion, if such may be deemed to be included in the application, of the transportation of household goods. And in the event applicant desires to withdraw specifically household goods from their application our protest will be withdrawn and our appearance may be as an interested party.

Chairman TERRIL. Are there any other additional appearances?

Mr. MACLEOD. Clair W. MacLeod. I would like to make an additional appearance for John Paulsen and S. H. Peterson, doing business as Transcontinental Contract Carriers, as a protestant to the application of Consolidated Freightways, Inc., I believe Sub. Nos. 15 and 19, or at least those sub. numbers pertaining to U. S. Highway 101. No appearance is being entered in the application of Oregon-Nevada-California Fast Freight. I am duly admitted to practice before the Commission.

Chairman TERRIL. Inasmuch as Mr. Hanback is new on the case it might be of some assistance to him—I don't know that it needs to be on the record—if we go around the table here so that he has everybody located; and also Mr. Starin, who is also new on the case.

1413 It might be off the record.

(Remarks outside the record.)

Chairman TERRIL. Do we have all the additional appearances? (No response.)

If so, we are ready to proceed, gentlemen.

Mr. BEROL. Mr. Examiner, if the Joint Board Members please, it will be recalled that at the conclusion of the last hearing we had some considerable number of shipper witnesses who had not yet been heard. Now, a number of them are here today. I recognize that hearings in this case will be running about like Tennyson's brook and I don't want to unduly continue it. I think we had some discussions with counsel at the prior hearing that I might this morning put on some four or five shipper witnesses and have other shippers who are present, whose problems are similar to those that testify, be stipulated that their testimony would be substantially the same on direct examination and cross-examination as these few shippers that I intend to put on.

Now, if it could be understood that we could proceed in that manner I could conclude by noon and, therefore, save a considerable amount of time.

Mr. FARRENS. If the Board please, as far as I am concerned, I am not in a position to say in advance of hearing testimony of witnesses that I will stipulate that the testimony of other
1414 witnesses will be the same if called. As far as taking time until noon or further time by the applicants, who have already had, I think about two weeks apiece on this case, there are assigned four available days for the testimony of all protestants in this case. I want to put the Board on notice, of such opportunity as I have had to survey what the protestants propose to put in will occupy every hour of those four days, and that this case will not be concluded if time is taken for considerable testimony by the applicants.

Mr. SCHAFER. I might state our position: Aside from recalling Mr. Weisler for cross, which was deferred, and introducing a few exhibits, ruling on which was deferred, we have no further case on direct. It will be recalled that in the hope of speeding up these proceedings and concluding the case two months ago we turned away a number of public witnesses, and that is all that remains of our case. However, I would like to put that in after the public witnesses.

Chairman TERRIL. I think the Joint Board has previously made known its attitude in this matter, which is that all parties will be accorded a reasonable opportunity to present their side of the case as far as the Board is concerned. And if it is not completed here it will probably have to go to some other time again. But we will do our best to get it all in.

Mr. BEROL. I might state this: That I am far more anxious to have this proceeding completed this week in its
1415 finality than I am in putting any considerable number of additional shipper witnesses on the stand. While these witness are here and present in the courtroom at the present time, I shall refrain from calling them beyond the noon recess if that will enable protestants to complete their showing at this week's proceedings.

Mr. FARRENS. I don't know that I can speak for all of the protestants. Perhaps other counsel should express their views, but I do not believe that the protestants could put in their testimony in rebuttal of cases which have occupied nearly a month in less than the four days allotted.

I would like to know what counsel think about it on this side of the table.

Mr. ELLIS. That expresses my views in the matter very defi-

nitely. I think that four days for protestants is the very minimum and perhaps more nearly five will be required.

Mr. KENDALL. I would like to state that my testimony will amount to about ten minutes and that is all I will have to put in, and if I can sandwich that any time in between I will appreciate it very much.

Mr. IVERS. I agree with Mr. Farrens and Mr. Ellis as to their estimate of what time will be required.

Mr. BEROL. I am ready to proceed. We do not seem to be making much progress.

Chairman TERRILL. I suggest we proceed. We will deal
1416 with the time element when it arrives, I guess. That is the only thing to do.

Mr. BEROL. I will call Mr. Miller, please.

CLARENCE MILLER was sworn and testified as follows:

DIRECT EXAMINATION

The WITNESS. My name is Clarence Miller; Yardley & Co., Ltd.; Assistant Pacific Coast Traffic Manager.

By Mr. BEROL:

Q. Mr. Miller, what is the business of Yardley & Co.?

A. They deal in toilet goods; to be more specific, perfumes and all such preparations.

Q. Where does your company maintain a plant or warehouse?

A. 274 Brannan Street, San Francisco.

Q. Now, Mr. Miller, in a general way, have you been informed as to the nature of the application pending here?

A. I have.

Q. And do you understand by that that the Oregon-Nevada-California Fast Freight, the applicant, is proposing a daily scheduled service extending its lines beyond Medford to Portland?

A. I do.

Q. Also proposing a service between the San Francisco Bay area and the Coos Bay area in Oregon?

A. Yes.

Q. And also proposing a service between the San Fran-
1417 cisco Bay area and Lakeview, Oregon?

A. I do.

Q. With respect to Lakeview, does your company have occasion to make many shipments to or from Lakeview?

A. Very infrequent shipments.

Q. What do you mean by "infrequent?"

A. Well, on account of the time, of course, we only have very few accounts up there and they don't order all at once. They

order here and there and, naturally, we fill the orders as ordered.

Q. Are you familiar with the transportation facilities that are available to you between here and Lakeview at the present time?

A. Yes.

Q. What are they?

A. Well, there's the railroad and the Oregon-California Fast Freight, and that's about all.

Q. Now, with respect to shipments by rail, do you know approximately what the time in transit is at the present time?

A. I will have to guess at it. I wouldn't be absolutely positive about the time.

Q. Assuming that this applicant is offering a next-day delivery from the San Francisco Bay area into Lakeview, is there any such facility available to you at the present time?

A. Not to my knowledge.

1418 Q. What would you say as to whether such a facility is or is not needed by your company?

A. I think it is needed.

Q. Would you say that without a service that will give you a following-day delivery into Lakeview, the present transportation facilities are adequate or inadequate for your needs?

A. Well, I should say that they are inadequate.

Q. If the service is established after being authorized by the Commission will it be the policy of your company to use it?

A. Yes.

Q. With respect to the territory between San Francisco Bay area, on the one hand, and the territory north of Medford to and including Portland, Oregon, do you have occasion to make shipments into that area?

A. Yes; quite frequently.

Q. And how frequently?

A. Almost daily.

Q. Do you have occasion to make shipments to such intermediate points as Grants Pass, Roseburg, Eugene, Salem, and so forth?

A. Yes.

Q. And those shipments are almost daily?

A. Almost daily.

Q. What would you say would be the average weight of your shipments?

A. Well, it is all l. c. l. freight, and it ranges from fifty

1419 pounds up to a ton.

Q. And what would you say as to the average volume per month in that area?

A. I should say anywhere, oh, around over a yearly period, it would average a ton of freight.

So when I say that the stock is presently held insofar as Ernest A. Gritsch and Dorothy Gritsch, his wife, are concerned, the 52 percent of the stock held by them is potentially held by them. It is at the present time in escrow at the bank.

Mr. ELLIS. Under the agreement, who has the right to vote the stock?

Mr. BEROL. Ernest Gritsch.

Mr. FARRENS. One more inquiry I would like to make. When the Pacific Seaboard Motor Lines sought from the Interstate Commerce Commission an acquired authority to purchase the Bothwell-Bottaglia rights and the Rush rights, how was the capital stock of Pacific Seaboard Motor Lines held both beneficially and with respect to legal title and what representation with respect to ownership of the capital of Pacific Seaboard Motor Lines, if any, were made to the Interstate Commerce Commission?

Mr. BEROL. That is similar to a question that was previously answered pertaining to the applications, the exact information of which I do not have because I did not prepare and I do not have the applications. If counsel will be specific as to what he wants I shall undertake to get it for him.

Mr. FARRENS. You did not get that question?

1435 Mr. BEROL. No.

Mr. FARRENS. At the time that Pacific Seaboard Motor Lines sought authority from the Interstate Commerce Commission and acquired authority to purchase the Bottaglia and Rush operative rights what was the capital stock set up as to ownership and what representations of the capital stock set up as to ownership were made to the Interstate Commerce Commission in connection with the application for the authority to buy those rights?

Mr. BEROL. I will be glad to obtain and furnish that information, but I am going to have to send to Portland for it and I don't know how quickly I will have it. In other words, I want the Examiner and the Joint Board members and the record to fully understand that apparently all protestants here, since the Oregon-Nevada-California Fast Freight have acquired a minority interest in the Pacific Seaboard Motor Lines, have been raising a hue and cry that they have done something illegal or contrary to law. Now, pursuant to that hue and cry I would like to supply and furnish all of the information that they can think of so that once and for all we may satisfy them and still that hue and cry.

Chairman TERRIL. I would suggest we have gone far enough. Let us go ahead and examine this witness.

1436 By Mr. ELLIS:

Q. Mr. Miller, just what difficulties have you encountered in connection with your shipments to points in Oregon north of Medford on Highway 99?

A. None in particular, except, of course, always desiring for faster and more frequent service.

Q. Have you had any of your consignees call your attention to the fact that the service wasn't fast enough to suit them?

A. Yes, around Christmas time.

Q. Around Christmas time. That is the only incident you recall?

A. Naturally that is our most valuable time, when time is most valuable to us, and it means a lot then.

Q. Now, when are these Christmas orders received normally in the course of your business?

A. They start anywhere from the first of September and keep going all the way through the day before Christmas.

Q. Do you start filling the orders as rapidly as they are received?

A. As they are received from our salesmen.

Q. Most of your Christmas goods are in the hands of the dealers several months in advance of Christmas Day?

A. No. You can't ship a territory as large as we have in one day. You would have to—it spreads over and the salesmen can't cover the whole territory in one day. So naturally there is an even
1437 flow of Christmas business starting with September, gradually increasing until the middle of November and the first part of December.

Q. And most of your shipments are over on your Christmas goods by the end of the first week in December, is that correct?

A. That cleans up everything but a few fill-in orders that are extra rush.

Q. And it is those fill-in orders that you are really concerned with and that you have had complaints on?

A. The whole thing all the way through. We like to have better service naturally on that because the faster service, of course, means more time that the customer has to sell the merchandise and reorder again, because reorders mean a lot.

Q. How much faster service do you expect if this application is granted than you are receiving at the present time?

A. Well, I should say approximately anywhere from seven hours to a day.

Q. You don't expect any quicker delivery at Portland, for example?

A. I couldn't answer that on the grounds that I am not entirely familiar with it.

Q. Do you ship to Salem?

A. We ship to Salem.

Q. Do you know whether you would receive any faster delivery in Salem than you are receiving at the present time?

A. According to my understanding; yes.

Q. What transportation agencies have you been using for your transportation into that territory?

A. Almost exclusively Oregon-Cal. so far.

Q. Now, bearing in mind that under the proposal here the applicant offers a following-day service to all points as far north as Eugene, and a second-morning service to points beyond Eugene, would that constitute an improvement over your present facility from the Oregon-Nevada-California Fast Freight?

A. Very much.

Q. In the transportation of your commodities is time in transit a matter of any importance?

A. Very vital.

Q. Will you state why?

A. Well, naturally, the greatest volume of business is at Christmas time, and if the stuff doesn't get there before Christmas to allow the retailer to sell it, he has it all left on his hands, and a day here or there means a great deal, plus it is very valuable merchandise.

Q. Recognizing that at the present time as to the delivery to these intermediate points the applicant interchanges traffic
1420 at Medford with the Consolidated Freightways and other carriers; and that under the proposal the shipments will be through shipments, is there any advantage to your company as respecting through shipments without interchange?

A. Yes. It requires less handling, which is quite vital to the merchandise we ship; plus the speed, the faster delivery.

Q. With respect to the Coos Bay area, do you have occasion to make shipments from the San Francisco Bay area to the Coos Bay area?

A. Yes.

Q. How frequently do such shipments move?

A. I should say weekly.

Q. What is the average weight per shipment?

A. That ranges, too, between a minimum of 50 and up.

Q. And up to a ton?

A. Not quite to a ton. It would be a little less than a ton.

Q. What would you say would be the higher weight of the shipments?

A. Oh, about 900 pounds.

Q. Bearing in mind that this applicant is offering a following-afternoon delivery from San Francisco into the Coos Bay area, I will ask you as to whether such a facility is or is not available to you at the present time?

A. Not to my knowledge.

Q. Will such a facility be of any advantage to you in the
1421 conduct of your business?

A. Very much so.

Q. Will you state why, please?

A. On account of the faster service and less time required in getting the merchandise to the customer for resale.

Q. You stated that you have had business relationships with the applicant?

A. I have.

Q. Over how long a period of time?

A. Approximately seven years.

Q. Based upon your experience with the applicant would you say as to whether or not it is or is not a reliable transportation agency?

A. Very, very reliable.

Mr. BEROL. You may take the witness.

Mr. SCHAFER. I was wondering if I may ask a question.

Mr. BEROL. Yes, indeed.

Cross-examination by Mr. SCHAFER:

Q. You say you have used the services of Oregon-Cal. for seven years. Has it, over that period of time, been the service which was best known to you out of San Francisco?

A. Yes, it has.

Q. And you state that you have used it exclusively. What was the reason for that?

A. Well, because I haven't found anybody that offered
1422 anything better in reliability and service.

Q. And am I correct in assuming by your testimony that you are here to testify primarily to a need for a better service, through service?

A. Yes; that's right.

Q. And can you say whether your testimony is influenced by personal liking for this applicant and its employees, or whether it is just a service that is needed?

A. No; it is not influenced by anything personal. It is just the service.

Q. Any good, dependable service equal to that which they propose would be satisfactory to you?

A. Yes; it would.

Q. Do you have occasion to ship into such points as Spokane and north Idaho points?

A. I do.

Q. Western Montana?

A. I do.

Q. And what service do you get now? What time in transit do you have between here and Spokane, do you know?

A. Well, I will have to make a rough estimate at it because I haven't checked up on it for quite a while. But I imagine it is three to four days; third or fourth morning.

Q. Do you have any through single-line service at all between San Francisco and Spokane?

A. Not to my knowledge.

1423 Q. Would you say, then, that a second-morning delivery to Spokane by a through carrier without any transferring route would be desirable?

A. Very much so.

Mr. IVERS. Pardon me. Did you say second-morning into Spokane?

Mr. SCHAFER. Second-morning deliveries into Spokane; 3:00 A. M.

Mr. BEROL. That's right.

By Mr. SCHAFER:

Q. Are you aware of the fact that Consolidated Freightways has an application pending to render such a service through Klamath Falls direct to Spokane and giving second-morning there without a transferring route?

A. I have knowledge of them wanting an application, but I don't know the time required.

Q. And are you willing that your testimony just given be considered engaging the public need for such a service?

A. I am.

Mr. SCHAFER. That is all.

By Mr. ELLIS:

Q. Are you acquainted with any of the personnel of the applicant, Oregon-Nevada-California Fast Freight?

A. Well, naturally I meet their drivers and their solicitors.

Q. Do you know anything concerning the management, or are you acquainted with the management?

A. I know most of them to speak to as far as that goes; yes.

1424 Q. Do you know Joe Gritsch?

A. I have met him; yes.

Q. Do you know Ernie Gritsch?

A. I have met Ernie; yes.

Q. And some of the other brothers?

A. Well, yes; I have met some of the others.

Q. You are aware of the fact——

Mr. BEROL. For your information, counsel, if you want to continue, their names are Tony, Vincent, Frank.

Mr. ELLIS. I am glad to have them in the record.

By Mr. ELLIS:

Q. Have you ever heard it said or advertised that the operations of this line were more or less of a family affair?

A. I wouldn't know about that.

Mr. BEROL. Just a minute. That is objected to as being incompetent, irrelevant, and immaterial. It doesn't make any difference whether this witness heard it or not. If he heard it, it's hearsay.

Chairman TERRIL. Do you insist on a ruling on that, Mr. Ellis?

Mr. ELLIS. No. I will withdraw the question if counsel objects.

By Mr. ELLIS:

Q. Over how long a period of time have you been using the services of this applicant?

A. Approximately seven years.

Q. And you are using the service today?

1425 A. I am.

Q. How recently have you used it?

A. Well, I used it yesterday and I will be using it again today.

Q. Have you used it for shipments from San Francisco Bay points to points on Highway 99 in Oregon?

A. Yes; I have.

Q. Do you know how your shipments are moving at the present time when routed over that line to points in western Oregon?

A. Presumably by Oregon-California-Nevada Fast Freight and Consolidated Freightways.

Q. Have you ever heard of the Pacific Seaboard Line?

A. Yes; I have.

Q. Do you know whether or not your shipments at the present time are moving from Medford north via the Pacific Seaboard Line instead of the Consolidated Freightways?

A. Aren't they just a line that doesn't stop at intermediate points; goes into Portland only?

Q. I am not familiar with the details of their operation, but I am asking you whether you know whether your shipments are moving over that line instead of over Consolidated Freightways from Medford north?

A. No.

Q. Are you familiar with the fact that line is owned and

1426 controlled by members of the Gritsch family and by this applicant?

A. No; I am not.

Q. If that is a fact and their services are coordinated through connections at Medford, would that meet all of your needs for service to points north of Medford?

Mr. BEROL. That is objected to upon the ground that the question assumes facts not in evidence.

Mr. FARRENS. In view of that objection I now request that counsel state precisely what the relations are between this carrier, concerning which Mr. Ellis has been inquiring, and who controls that company and what operations are today being conducted in coordination between this applicant and the newly acquired carrier north of Medford to Portland.

Mr. ELLIS. I join in that request. I think it is important that we know.

Mr. BEROL. Mr. Examiner and Members of the Board, I shall be delighted to comply. However, I have a number of witnesses here. I don't want to take the time to do it now. I will do so as soon as we terminate with the witness.

Mr. FARRENS. That doesn't meet my request.

Chairman TERRIL. Let us clear the situation now, Mr. Berol, and we will go over the noon hour if necessary.

Mr. BEROL. Will you read his request, please?

Mr. FARRENS. Never mind reading it, Mr. Reporter. I will restate my request.

I want information from counsel concerning all relations between this applicant and the carrier north of Medford, who
1427 owns the capital stock, the dates of the acquisition, what has been done with respect to joint tariff publications, what has been done with respect to the new operations of equipment. I want complete information on all relationships between those two carriers and the Gritsch family.

Mr. BEROL. If counsel wants complete information pertaining to tariffs and matters of that kind he wants more information than I have immediately available. I shall be glad to furnish at this time what information is personally known to me, and at a later date submit whatever information counsel may want pertaining to tariff publications and such similar matter.

In order to fully advise the Examiner and Board members and, apparently, to satisfy the burning curiosity of counsel, I might state that the Pacific Seaboard Motor Lines, Inc., is a corporation. It is a corporation that was organized some several months ago, the exact date of which is not available to me at the present time but which I shall be glad to obtain and furnish. As a corporation it succeeded to the operations of one L. E. Bothwell and one Rush, whose initials are at this time unknown to me.

The capital stock of the corporation is owned in the following proportions by the following individuals or companies: J. A. Gritsch, one share; the Oregon-Nevada-California Fast
1428 Freight, Inc., 47 shares; Ernest A. Gritsch, 51 shares; and Dorothy Gritsch, his wife, one share. All of the outstanding shares of the corporation, as I am informed are in the number

of 100. Therefore, the shares that I have mentioned constitute all of the shares of the capital stock of the corporation.

I think another question that was asked was as to connections. I believe that as the 3rd of this month under appropriate tariff publication the Pacific Seaboard Motor Lines had in effect rates between Medford and Portland, Oregon, and I believe that by tariff publication the Oregon-Nevada-California Fast Freight and Pacific Seaboard Motor Lines, Inc., were named as concurring carriers.

I believe it is a fact that at the present time traffic is being interchanged at Medford, Oregon.

If counsel will be specific as to whatever other information may be desired I shall be glad to either immediately or during the course of these proceedings to furnish it.

Mr. FARRENS. Is through equipment of Oregon-Nevada-California Fast Freight being operated into Portland?

Mr. BEROL. It is my understanding that it is, under a lease arrangement.

Mr. FARRENS. Are joint through freight rates published between Portland and San Francisco on those two lines?

Mr. BEROL. That is all a matter of tariff publications
1429 and I will have to call upon a tariff man to answer. I will supply the information later.

Mr. FARRENS. Was the Commission's approval for the acquisition of Pacific Seaboard Motor Lines secured or requested?

Mr. BEROL. You mean the acquisition by the Pacific Seaboard of the two predecessor companies or the acquisition of the corporate stock by members of the Gritsch family?

Mr. FARRENS. Well, you can answer the question, if you will, as to both items.

Mr. BEROL. As to the first item, permission was secured from the Commission for the Pacific Seaboard Motor Lines to acquire both the Bothwell and the Rush operations. No permission has been secured from the Commission or has any permission been sought either for the acquisition by Ernest A. Gritsch of the control of the corporation, nor for the acquisition by the Oregon-Nevada-California Fast Freight of a minority interest. I understand that some correspondence and negotiations are being carried on by my associate in Portland with respect to that question at this particular time, and if the Commission as a result of that correspondence and negotiations should indicate that any permission for any action in the matter further than has been taken need be taken it will be taken.

1430 Mr. FARRENS. I would like to inquire whether when the Interstate Commerce Commission permission to Pacific Seaboard Motor Lines for the acquisition of the Bothwell and Rush

operations was secured there was disclosed to the Commission the fact, if it then was a fact, that James A. Gritsch owned one share or Oregon-Nevada-California Fast Freight owned 47 shares, Ernest A. Gritsch 51 shares and Dorothy Gritsch one share of the capital stock of the Pacific Seaboard Motor Lines.

Mr. BEROL. I am not able to furnish that information at the present time because I did not file the application. I would be glad, however, to obtain that information and furnish it. I might state, rather than take the time to proceed in this matter and counsel ask me questions and me answer them, that if counsel will write out a complete inquiry of everything that he wants to know, so long as it pertains to the transaction, I will attempt to satisfy his curiosity from every respect.

Mr. FARRENS. I could shortcut that. If counsel will take the type of application which Oregon-Nevada-California Fast Freight and the Gritsch brothers would have to make to the Interstate Commerce Commission for authority to acquire controlling interest in the Pacific Seaboard Motor Lines and answer the questions that are on that application, it will satisfy my inquiry.

Mr. BEROL. Well, counsel apparently has reference to
1431 some specific application, and if counsel will give me the indication as to what he wants done, I will certainly give consideration to whether it will be done or not. I am not saying it will be done because counsel wants it done.

Mr. FARRENS. It is Form 21 Application that I would like counsel to answer the inquiries on.

Chairman TERRIL. Do you care to answer that, Mr. BEROL?

Mr. BEROL. I don't understand what Mr. Farrens wants; whether he wants me to give him all the information that is normally called for by a Form BMC 21, or whether he wants the Pacific Seaboard Motor Lines to file a Form BMC 21.

Mr. FARRENS. It is the information that would normally be called for by Form BMC 21 which I would like counsel to supply.

Mr. BEROL. I will take that under consideration, and if I determine that the request is reasonable I will supply it voluntarily. In the event that I determine that the request is unreasonable, I will then supply it only in the event that the Examiner and the Joint Board order me to do so.

Mr. FARRENS. When will we be informed as to that position?

Mr. BEROL. Tomorrow.

Mr. GLANZ. I would like to know in addition, Mr. BEROL, if you don't mind trying to ascertain the facts, whether or not there
1432 are any negotiations pending at the present time for the sale of Pacific Seaboard Motor Lines.

Mr. BEROL. I don't know of any specific negotiations being conducted for the sale of Pacific Seaboard Motor Lines. I do know of

this: That among the operative rights held by the Pacific Seaboard Motor Lines there are through operative rights between Portland, Oregon, and Los Angeles, California, via San Francisco. I know that I personally and certain individual stockholders of the Pacific Seaboard Motor Lines have been approached to sell, if such a sale is proper, the portion of the operative right between Los Angeles and San Francisco. Now, as to whether such negotiations are still pending or what the nature of them is, I don't know.

Mr. GLANZ. I think that answers my question. Thank you, Mr. Berol.

Mr. ELLIS. I have one additional point that I would like some information on, and that is as to whether or not there was a precorporation agreement between the Oregon-Nevada-California Fast Freight or its management or any other stockholders contemplating the incorporation of the Bottaglia and Bothwell rights into the corporation of Pacific Seaboard?

Mr. BEROL. Well, I know of no agreement that would fall within the legal description of a "preincorporation agreement." I will say that there was an agreement between certain of the present stockholders of the Pacific Seaboard Motor Lines and Both-
1433 well and one Bottaglia, his lessee. I might also call attention to one other thing that I want to make clear at this time: In indicating the present stock ownership of the Pacific Seaboard Motor Lines I failed to fully mention that the present stock ownership, as I described it, is not fully accurate in that the stock ownership as I described it is present and potential.

By that I mean this: At the present time the one share of stock held by J. A. Gritsch is held by him outright. The 47 shares of stock held by the Oregon-Nevada-California Fast Freight are held outright, the same having been bought and paid for. The 52 shares potentially held, 51 by Ernest A Gritsch and one by Dorothy Gritsch, his wife, are not at the present time in the name of Ernest A. Gritsch or Dorothy Gritsch. They are, it is my understanding as far as the corporate records are concerned, in the name of Bottaglia. Ernest A. Gritsch and Dorothy Gritsch, his wife, have an agreement with Bottaglia to purchase those under payments that are accruing over a period of some six or seven months. The stock in the meantime is in the name of Bottaglia. The stock is in escrow with a bank under provisions providing that if, as, and when Ernest A. Gritsch and Dorothy Gritsch complete the payments for that stock the escrow shall be released and the stock shall be released to Ernest Gritsch and Dorothy Gritsch, his wife.

If, on the other hand, payments should not materialize as
1434 per the escrow instructions to the bank, then under certain conditions the stock will be forfeited and released back to Bottaglia.

1438 Q. How much faster do you think that would be?

A. Approximately seven hours minimum, I think.

Q. Do you know where the delay is occurring at the present time which you think may be eliminated?

A. I think that it is in the interchange at Medford.

Q. And if that interchange has been eliminated through the situation which Mr. Berol has just explained, or if it may be eliminated in some other way, that would meet your real need, would it not?

Mr. Berol. I think that counsel ought to be as fair with the witness as I have attempted to be with counsel this morning. I think if counsel is going to ask that kind of question he ought to explain to the witness that the Pacific Seaboard Motor Lines does not serve Salem; that the only intermediate point which they have authority to serve between Medford and Portland is Grants Pass. And if counsel is going to ask similar questions about some of these points, I think he ought to be fair with the witness and explain to the witness that the Oregon-Nevada-California Fast Freight, even if it has an arrangement or a connection with the Pacific Seaboard Motor Lines, is unable to serve, by reason of that connection, any intermediate points between Medford and Portland with the exception of Grants Pass.

Mr. Ellis. I am glad to have that information in the rec-
1439 ord. I said "or by any other means." I was getting at the delay particularly.

By Mr. Ellis:

Q. The thing you are interested in is the elimination of any unnecessary delay that may be occurring at the present time in the handling of your shipments?

A. That's right.

Q. Is that not the fact?

A. That's right.

Q. Have you ever used the service of Pierce Auto Freight Lines?

A. No, I never have.

Q. Have you used the service of Pacific Truck Express?

A. No.

Q. Are you aware of the fact that Pierce Auto Freight Lines at the present time is giving through daily service without transfer of lading from the San Francisco Bay area to all of the points on Highway 99 about which you have been testifying?

A. I have, but I haven't seen their pick-up service, and so forth, has been able to serve us to the extent that Oregon-California-Nevada Fast Freight has.

Q. Have you tried their service?

A. No, but I have never seen anybody who showed me that it could be done.

Q. And you haven't been affected sufficiently by the delay that you have been telling us about to cause you to use a more direct service that Pierce Auto Freight Lines offers?

A. If they can give me better service I will use them. I
1440 haven't as yet heard or been able to find out that they can.

Mr. ELLIS. That is all.

By Mr. GLANZ:

Q. In connection with the movement from San Francisco Bay area to Oregon points, did I understand you to say that you had been using the services of Oregon-Nevada-California Fast Freight for the past seven years?

A. We do.

Q. Has that service been entirely satisfactory throughout that period of time?

A. It has been the best available.

Q. What is it that you are seeking here now that you do not have?

A. Faster service.

Q. Well, now, did you make any investigation to determine whether or not there were any services faster than Oregon-Nevada-California Fast Freight at any time in the past seven years?

A. I have.

Q. And what were the results of your investigation?

A. That Oregon-Cal. was faster and that handling of merchandise was much better.

Q. Well, now, with respect to the speed, what facts did you find?

A. That they were faster on their pick-up and their pick-up was more adequate to our needs than any other carrier.

1441 Q. And upon what did you base that conclusion?

A. After investigating them.

Q. Well, what investigation did you make? How did you investigate the speed of the pick-up service, for instance?

A. Well, naturally, if they have their own trucks, which I know they have, and their pick-up is suitable to us, which it comes in around 2:00 o'clock every afternoon, and it fits just about right.

Q. Well, did you call, for instance, Pierce Auto Freight to determine whether or not they had pick-up service that might just as well come by your place at 2:00 o'clock?

A. They haven't.

Q. You haven't investigated?

A. They haven't pick-up service.

Q. They do not have pick-up trucks?

A. No.

Q. And you found that out in your investigation, did you?

A. I did.

Q. Did you ascertain whether or not any other carriers operating through between Los Angeles and the Pacific Northwest had pick-up services in San Francisco for pick-up and delivery of merchandise either originating at or destined to points in Oregon?

A. Are you referring to contract or common carrier?

Q. Common carriers.

1442 A. Common carriers? Yes, I think L. A. and Seattle goes through, but their service wouldn't be adequate for us.

Q. Have you ever heard of Colletti Fast Freight?

A. They are more or less a contract carrier, aren't they?

Q. No, they are not.

A. In some instances they are.

Q. Was that your information, that they were?

A. Both then.

Q. About Los Angeles-Seattle?

A. I mean, Colletti is both contract and common.

Q. That is your understanding of it?

A. That is my understanding of it.

Q. And did you investigate that service?

A. No.

Q. Do you know what deliveries Colletti Fast Freight gives out of San Francisco?

A. No, I don't.

Q. Well, now, assuming that there were a carrier in existence at the present time that could give the speedy service that you want, would you still say that there is a need for the proposed service of Oregon-Nevada-California Fast Freight?

Mr. BEROL. Just a minute. I am going to object to that question upon the ground that it assumes facts not in evidence and, as a matter of fact, it is contrary to the evidence.

Mr. GLANZ. May I be heard on that?

1443 Mr. BEROL. Just a minute. Let me finish, counsel.

Mr. GLANZ. You bet.

Mr. BEROL. Here comes Mr. Glanz and apparently he is appearing for the service of the Colletti Fast Freight. If counsel will put into this record prior to its close as to what the services of the Colletti Fast Freight are, I am going to withdraw my objection to this line of questioning. If, however, he is not going to disclose for the record what those services are, then I stand on my objection.

Mr. GLANZ. My question was not limited to the services of Colletti Fast Freight alone, Mr. Chairman. In the second place, to specifically answer Mr. Berol, the protestants have not had an

opportunity as yet to show the existence of service and, naturally, when a public witness takes the stand we have to assume certain facts which, truly, are not in evidence. And I submit that such assumption of facts is perfectly legitimate in a proceeding of this type, subject to the questions and answers being stricken if they are not properly tied up.

Mr. BEROL. All I am asking is that counsel state that this question is based upon evidence that he will subsequently offer that he has not had an opportunity to offer yet. With that kind of a statement this question is proper. And in the absence of that statement, the objection is good.

Mr. GLANZ. I will submit that I would not like to be
1444 bound as to what I will show, but what the protestants in the aggregate will show, Mr. Chairman. And with that remark I think Mr. Berol's suggestion might be proper.

Chairman TERRIL. Will you read the question, Mr. Reporter?

(The question referred to was read by the reporter.)

Chairman TERRIL. The objection is overruled.

By Mr. GLANZ:

Q. Do you recall the question?

A. If there are carrier or carriers existing that can give the service, naturally there wouldn't be, if they were a good bonded carrier.

Mr. GLANZ. That is all, thank you.

By Mr. ELLIS:

Q. I would like to follow up on one question. Who told you that Pierce Auto Freight Lines didn't have pick-up service in the Bay area?

A. I haven't seen their trucks going around.

Q. And that is your only means of knowledge as to whether they have pick-up and delivery service?

A. That's right.

Mr. BEROL. Counsel is not contending for a minute that they actually maintain their own pick-up and delivery service in San Francisco?

Mr. ELLIS. They maintain a pick-up and delivery service in San Francisco.

Mr. BEROL. This witness was talking about Pierce pick-up and delivery trucks, not somebody else.

1445 By Mr. ELLIS:

Q. Have you ever attempted to call Pierce Auto Freight Lines or look in the telephone directory to see whether they have offices here?

A. Yes; they have offices here and I know where they are.

Q. Did you ever call that number and ask them to pick up the freight?

A. And I know who does the pick-up.

Mr. Berol. Suppose you tell him?

The Witness. Valley Express does the pick-up.

By Mr. Ellis:

Q. You knew that Valley Express does the pick-up for Pierce Auto Freight Lines in the Bay area?

A. Yes.

Mr. Ellis. That is all.

By Mr. Farrens:

Q. Mr. Miller, during the past seven years for a period of time Pacific Truck Express operated approximately a 24-hour service from San Francisco to Portland and intermediate points. Did you, during that period, switch from Oregon-Nevada-California Fast Freight service to that faster service of Pacific Truck Express?

Mr. Schafer. I am going to object to that. Counsel is making a definite statement more or less in the nature of testimony that for seven years Pacific Truck Express did have such a service. Now, if he wants to make it as an assumption or hypothetical of any kind it would be all right; but, in the first place, Pacific
1446 Truck Express hasn't been operating down here that long and I think counsel knows it, and it is a misleading statement made to this witness.

Mr. Farrens. If counsel would open his ears and listen to the question he would have ascertained that I made no such statement that he attributed to me.

Mr. Schafer. Will you read it?

Mr. Farrens. Read it.

(The question referred to was read by the reporter.)

Mr. Farrens. I will accept counsel's apology.

Mr. Schafer. It still sounds like testimony to me.

Mr. Berol. I didn't hear counsel make any apologies. Did he?

The Witness. Do you wish the question answered?

Mr. Farrens. Yes; please.

A. Well, not to my knowledge. Pacific Truck Express has not had an office in San Francisco.

By Mr. Farrens:

Q. You are of the opinion that Pacific Truck Express has had no office in San Francisco, to the best of your knowledge?

A. To the best of my knowledge. I think they opened one recently.

Q. Are you of the opinion that the Pacific Truck Express has not had a pick-up service in San Francisco?

A. They have had a few trucks pick up in San Francisco. I don't know if it is their own equipment or not.

1447 Q. Were you aware of the fact that for a period of time several years ago Pacific Truck Express did operate a 24-hour service between San Francisco and Portland?

A. Between San Francisco and Portland?

Q. Yes.

A. I don't ship by truck to Portland.

Q. Well, to intermediate points, then.

A. No; I wasn't familiar with that.

Q. You weren't making an investigation at that time of truck service?

A. It depends on how long ago it was.

Q. How do you ship to Portland now?

A. I ship to Portland, excepting cases of necessity, by railroad.

Q. And how do those shipments move?

A. By Southern Pacific.

Q. Express or freight?

A. Freight.

Q. Have you investigated the recently inaugurated coordinated rail and truck service to the Oregon points south of Portland which is maintained by Pacific Truck Express and Southern Pacific Company?

A. No; I haven't. It is very recent, I imagine.

Q. That service has been in effect since about July 15. Your necessities for faster service than Oregon-Nevada-Cali-

1448 fornia Fast Freight and Consolidated Freightways have been furnishing were not sufficient to cause you during the past two months to investigate that service?

A. Well, it's natural that you can't investigate every day to see who has the fastest service. It takes a little period of time to be able to get the time to do those things.

Q. Well, now, if you were to find that that service was equivalent to that which is promised by Oregon-Nevada-California Fast Freight, would that satisfy your convenience and necessity?

A. It would; yes.

Q. Mr. Miller, has the service which Oregon-Nevada-California Fast Freight and Consolidated together has been rendering you from San Francisco to points in Oregon or north of Medford been less satisfactory since December 1938 than it was prior to that time?

A. No.

Q. During the period prior to December 1938 did you have any

loss and damage claims arising out of the interchange of freight at Medford?

A. Very few, to my knowledge.

Q. Have the loss and damage claims of your company increased since December 1938?

A. No.

Q. Well, what has been your experience with the joint
1449 service of those two carriers? Has that been as satisfactory from a loss and damage claim standpoint as the service of other carriers going out of San Francisco in other directions?

A. It has been approximately the same, I imagine, or maybe a little better.

Q. In what respect, other than the speeding up of shipments which has been represented to you would accrue with the establishment of this applicant's proposal, and the elimination of interchange at Medford, would there be advantage to you?

A. That is the main thing: The speeding up of service, plus the less handling of it. Where there is more handling there is more opportunity for loss and damage claims. All the services that I have used have been interchange services.

Q. Don't you ship to northern California?

A. That's interchange service. It requires handling.

Q. You mean because of an interchange between the pick-up truck and line haul?

A. No. It is an interchange between the trap-car service and the freight depot.

Q. Don't you ship by Oregon-Nevada-California Fast Freight to northern California?

A. Some points.

Q. That doesn't involve interchange, does it?

A. It requires one.

1450 Q. What interchange does it require?

A. It requires interchange from a truck to their depot.

Q. Do you find that you suffer loss and damage claims by interchange?

A. I wouldn't know. I would have to follow the truck and see.

Q. Isn't this a fact, Mr. Miller: That on this service which you have been enjoying from San Francisco into points in Oregon via these two carriers that the loss and damage situation has been highly satisfactory throughout your entire experience?

A. It hasn't been bad, I know. I admit it.

Q. It has been really good?

A. Well, I wouldn't say exceptionally good.

Q. It has been normal. Would you agree with me?

A. It has been normal.

Q. And you haven't found that it has been increased because of the fact that there is an interchange of business at Medford?

A. I wouldn't blame it on that because I wouldn't know.

Q. What investigation specifically during the past few years have you made of the service of Pacific Truck Express?

A. Well, I investigated the equipment and their pick-up service, naturally, means a lot. And to that extent I haven't full information here at my fingertips right now.

Q. Did you know that they operated through from San
1451 Francisco to Portland?

A. I know they operated through from San Francisco to Portland.

Q. And did you investigate their schedule to see how fast it was?

A. Their operation from here to Portland hasn't interested me to any extent except in cases of emergency.

Q. Did you investigate their schedules to see how fast they were?

A. I believe it is about second morning.

Q. Well, you say you "believe" that. My question was whether you investigated the schedule?

A. I said I haven't information right available at my fingertips right at the present time.

Q. Did you ever call them at any time and asked them how fast their schedule was?

A. No; I never.

Q. And did you find anything about their pick-up equipment to which you took exception when you investigated?

A. Well, from the appearance of their pick-up trucks I wouldn't say that they were capable of handling our merchandise.

Q. What does a pick-up need to be like to be capable of handling your merchandise?

A. Well, most of our merchandise is packed in wooden cases weighing anywhere from 250 to 350 pounds, and when you have to lift one of those into a truck it requires quite a bit of
1452 brawn; and if you get about a dozen or so of those cases you need quite a large truck to haul it.

Q. And you didn't think the pick-up trucks of the Pacific Truck Express were big enough to handle a dozen of your cases of 150 to 350 pounds in weight?

A. Not from what I have seen.

Q. Well, did you ever inquire to find out whether they operated pick-up trucks that were large enough to pick up your shipments?

A. No; I never have.

Mr. FARRENS. That is all.

By Mr. IVERS:

Q. What was the difficulty with the pick-up service of the Los Angeles-Seattle Motor Express?

A. I haven't said that there is any difficulty with their pick-up service.

Q. You said that it wouldn't be satisfactory to you?

A. It's a carrier coming through from Los Angeles, isn't it?

Q. Yes.

A. And the time that they get in here from the best of my knowledge wouldn't be proper time for us.

Q. Do you know whether they operate trucks which terminate at San Francisco and more north from San Francisco again?

A. Yes; they terminate at San Francisco.

Q. Do you know what their pick-up service is?

A. I believe it is in the morning.

1453 Q. Do you know whether they do their own pick-ups or have a pick-up service locally situated here in town?

A. To the best of my knowledge I don't think they do their own pick-up.

Q. Do you know who does? Did you ever investigate that?

A. I think Haslett Warehouse does it.

Q. That is a very reliable concern, is it not?

A. It is a very reliable concern.

Q. It has a very large amount of pick-up equipment?

A. Naturally.

Q. Have you ever called them to find out what their service was?

A. No; I never have, not recently.

Q. Well, did you at any time?

A. A good many years ago.

Q. How long ago would you say?

A. About five years ago.

Q. And since five years ago you have found no occasion to investigate the service of Los Angeles-Seattle Motor Express?

A. No; I haven't.

Q. Now, what is your most important point in Oregon?

A. In Oregon?

Q. Yes.

A. Well, there isn't any stand-out point. Of course, Portland is the big point.

1454 Q. That is the big point?

A. That is the big point.

Q. It takes the biggest volume?

A. It takes the biggest volume.

Q. Is there any point between San Francisco and Portland that is comparable to the volume that you ship to Portland?

A. Well, I imagine that Eugene and Salem would come about next.

Q. And how would the volume of your shipments into Eugene and Salem compare with the volume to Portland?

A. About half.

Q. That is, taking the two of them together it would amount to about half of Portland?

A. Yes.

Q. To what other points in Oregon do you ship by rail?

A. Portland and Oregon City and points right in there on the mouth of the Columbia River; in around close there.

Q. Astoria?

A. Yes.

Q. The Dalles?

A. No.

Q. How far up the Columbia River from Portland do your shipments move out of San Francisco by rail?

A. Not at all; just, as I say, around at the mouth.

Q. How do you ship to The Dalles?

A. Oregon-California-Nevada Fast Freight.

1455 Q. What points west of Portland other than Astoria do you serve by rail, through rail shipments out of San Francisco?

A. West of Portland?

Q. Yes.

A. Well, let's see now! Which points are west of Portland?

Q. Well, do you know?

A. Portland is pretty close to the ocean. It is right up there in the river.

Q. I see. And you don't know of any point, then, that you serve by rail?

A. There is Marshfield.

Q. Do you serve that by rail?

A. No. We serve that by Oregon-Nevada-California Fast Freight.

Q. North of Portland do you serve any points by rail?

A. Yes.

Q. What points north of Portland do you serve by rail?

A. Points in Washington.

Q. What points in Washington?

A. Seattle, Tacoma, Olympia, and those points right around there.

Q. Chehalis?

A. No.

Q. Centralia?

A. No. They are too far away. We ship those mostly up there on the Sound in around the circle, in around the Sound right
1456 in close there; Tacoma, Seattle, Olympia, and those points.

Q. Everett?

A. Port Angeles.

Q. Everett?

A. Everett.

Q. Mt. Vernon?

A. Mt. Vernon; no.

Q. Bellingham?

A. Bellingham.

Q. Those are all shipped by rail shipments out of San Francisco?

A. Served by rail.

Q. What about Spokane?

A. Spokane, we serve that by Oregon-Nevada-California Fast Freight.

Q. What about Walla Walla?

A. Walla Walla the same way.

Q. What is the transit time by rail that you receive in the service that you use to points north of Portland?

A. By rail or by truck?

Q. By rail.

A. By rail?

Q. Yes.

A. I wouldn't be familiar with that right at the present moment.

Q. The service, however, is satisfactory to you?

A. It is as far as speed is concerned, when we don't need
1457 extra special speed.

Q. But you find that except in those cases of extreme necessity the rail service is satisfactory to you to the points that you have named, Portland and north?

A. I wouldn't say it was absolutely satisfactory. There might be a difference in rates.

Q. But you find that the service suits your business well enough so that you can continue to use it?

A. Well, if there is an amount of saving, naturally you don't require the excess speed.

Q. I see. So that you are able to order your business in such a way that if you can effect a saving you can use a slower service and still conduct your business satisfactorily?

A. So long as it isn't too slow.

Q. Will you tell me what the time in transit is to those points by rail?

A. It's—I wouldn't be exact about it, but I believe it's third afternoon, in around there, delivery to Seattle.

Q. Third afternoon to Seattle?

A. Yes.
Q. By freight?
A. Yes.
Q. Railroad freight?
A. Yes.
Q. What is it in to Portland?
1458 A. I imagine it is about a day earlier; about second afternoon.
Q. And what does this applicant offer to Portland?
A. I don't know. I wouldn't say that that was delivery. That is depot delivery, as far as I know.
Q. That is depot arrival as far as you know?
A. Yes.
Q. Do you know, then, how long after that delivery would be?
A. That I don't know because I don't know how they deliver up to Portland. I have never been up there.
Q. But, however, they do deliver, and in view of the savings that you make you are able to successfully and satisfactorily conduct your business shipped by rail?
A. Except in the cases of necessity.
Q. And those are really extreme emergency cases, are they not?
A. Not too emergency. Of course, as I say, in the fall of the year when we have our Christmas business naturally we have to speed up.
Mr. IVERS. That is all.
Chairman TERRIL. Any further cross-examination? (No response.)
Mr. BEROL.

Redirect examination by Mr. BEROL:

Q. Mr. Miller, we have heard about a lot of carriers this morning. Has Colletti Fast Freight solicited?
1459 A. No.
Q. Do you know as to whether or not they serve Lakeview?
A. No; I don't.
Q. Do you know as to whether or not they serve the Coos Bay area?
A. No; I don't know.
Q. Has Los Angeles-Seattle Express ever solicited your business?
A. No.
Q. Have they ever informed you as to whether they serve Lakeview?
A. No; they never have.

Q. Did they ever inform you as to whether or not they served the Coos Bay area?

A. No; never.

Q. Have they ever informed you as to what their service is at all?

A. No; they haven't.

Mr. BEROL. I think that it all.

Re-cross-examination by Mr. SCHAFER:

Q. I have one more question, if I may. What carriers did you mention serving Klamath Falls?

A. I didn't mention any yet.

Q. Do you know of any motor carrier other than Oregon-California-Nevada Fast Freight now serving Klamath Falls?

A. I haven't investigated them recently.

1460 Q. You don't know of any?

A. No; I don't.

Mr. SCHAFER. That is all.

Chairman TERRIL. You are excused.

(Witness excused.)

Chairman TERRIL. We will have a short recess, please.

(A short recess was taken.)

Mr. BEROL. Mr. Ferrero.

JOHN FERRERO was sworn and testified as follows:

Chairman TERRIL. There will be no smoking in the courtroom during the proceedings. I didn't announce that at the beginning of the hearing. I am now announcing it.

Direct examination by Mr. BEROL:

Q. What is your full name, please?

A. John Ferrero.

Q. Where do you reside?

A. 63 LaMartine Street, San Francisco.

Q. What is your business or occupation?

A. Foreman.

Q. I didn't hear that.

A. Foreman.

Q. At what company?

A. H. D. Lee Mercantile Company.

Q. What is the business of the H. D. Lee Mercantile Company?

1461 A. Cotton work clothing and sport clothes.

Q. As foreman of that company are you familiar with its transportation requirements?

A. Yes, sir.

Q. Are you familiar in a general way with the nature of the application pending here?

A. Yes, sir.

Q. Do you have occasion in the conduct of your business to make any shipments to Lakeview?

A. Yes, sir.

Q. How frequently do you make such shipments?

A. Well, into Lakeview I will say about three to four weeks; that is, about every three or four weeks.

Q. That is, about every three or four weeks?

A. About every three or four weeks.

Q. What would be the volume of such shipments?

A. Well, I will say around about 150 pounds of shipments.

Q. Are you familiar with the transportation facilities available to Lakeview?

A. Yes, sir.

Q. Of what do they consist?

A. Well, you can ship them in there by rail or else Oregon-California Fast Freight. That's the only two that I have been shipping in there by.

Q. When you ship by rail could you give me an idea as to
1462 how long it takes?

A. Well, I have had complaints of through rail. They haven't received their shipments inside of six or seven days, and by the time the salesmen have got around there to make their checkup trip, why, the merchants haven't received their merchandise.

Q. How long does it take by truck?

A. Well, truck, why, I found that it takes around about three days.

Q. Are you familiar with the fact that the applicant here is offering following afternoon delivery to Lakeview?

A. Well, I have heard Mr. Snyder say that he was trying to put that through.

Q. Is that kind of service available to you at the present time?

A. No, sir.

Q. What would you say as to whether your present facilities to Lakeview are sufficient or insufficient for your needs?

A. Right now they are insufficient.

Q. Do you have occasion to make shipments from the San Francisco area to points north of Medford?

A. Yes, sir.

Q. Along Highway 99?

A. Yes, sir.

Q. And to what points particularly?

1463 A. Well, we cover the whole Pacific Coast, so that would take everything in.

Q. Do you understand that under the present proposal the applicant is offering a following day delivery as far north as Eugene and a second morning delivery to all points north thereof, as far north as Seattle, Spokane, Washington?

A. Yes, sir.

Q. Is time in transit of any consequence to you in the conduct of your business?

The WITNESS. I didn't get that.

Chairman TERRIL. Give him the question, Mr. Reporter.

(The question referred to was read by the reporter.)

A. Yes; it would. It would mean a whole lot.

By Mr. BEROL:

Q. Will you explain why?

A. We serve all independent stores, clothing stores. We have for years been fighting chain stores, helping the dealer to establish his business. And we find that the independent dealer has been having a tough time in the last year, well, we will say, in the last ten years or at the time of the depression to compete with chain stores throughout the country. That includes Penneys, Sears Roebuck, Montgomery Ward, and which they sell merchandise a lot cheaper than an independent man can sell. And, therefore, he can't put an amount of merchandise into his store or carry the amount that a chain store can for the simple reason that he

1464 pays more for his goods, and where a chain store buys such quantity lots that he can stock up and carry him for months, where an independent man has got to buy and has to have it as quick as possible.

Q. Does a substantial amount of your shipments to independent dealers compete with chain stores, such as you have described?

A. Yes, sir. All dealers we serve all compete against chain stores.

Q. Do you have any shipments into the Coos Bay area?

A. Yes.

Q. How frequently do you have occasion to ship into that territory?

A. Well, we'll—I'll say probably about every week there is something going up through there.

Q. And do you understand that the applicant's proposal here is to offer a service that will make deliveries in the Coos Bay area the afternoon following departure from San Francisco?

A. Yes, sir.

Q. Is that type of service available to you at the present time?

A. Yes, sir.

Q. I mean, do you get that kind of a service?
A. No; not right now; no. Pardon me.
Q. Do you need that kind of a service?
A. Yes; we do.
Q. Will you use it if it is established?
A. Pardon?
1465 Q. Will you use it if it is established?
A. Yes, sir; we will. And how!
Q. Can you give me an idea as to what the volume of tonnage that you ship per week or per month on the average into the northwest territory is?
A. Well, I would say it's pretty hard to say right off hand without going through my records.
Q. Can you give me a rough approximation?
A. I'll say around about three ton.
Q. About three tons per week or per month?
A. Well, I will say about three tons per month.
Mr. BEROL. That is all. You may take the witness.
Chairman TERRIL. Of those three tons how much moved by motor truck?
The WITNESS. Practically—well, I'll say—I'll say a little over half.
Chairman TERRIL. Cross-examination.

Cross-examination by Mr. ELLIS:

Q. Do you maintain salesmen in the western Oregon area along Highway 99?
A. Yes, sir.
Q. About how frequently do they call on the trade?
A. We have a salesman established in Portland and we have one in Sacramento, and we have one—now, these salesmen that I am referring to, they go into Oregon. They work out of
1466 there. The Portland man, he works—he works up as far as Ashland, and the man from Sacramento works down up through Lakeview and into Klamath Falls down into Marshfield.
Q. My question had to do with—
A. (Interposing.) They are supposed to make their territory about every two weeks. It gives the dealer a chance to turn over his merchandise.
Q. And how do they transmit their orders?
A. Through mail; mail and airmail.
Q. To the San Francisco warehouse?
A. Yes, sir.
Q. Do you maintain a warehouse in any other point on the Pacific Coast?
A. No. We do the manufacturing right here.

Q. Do you know how fast your regular mail service is from points on Highway 99 to San Francisco?

A. Well, that is hard, of course; sometimes once a day, maybe two days. It all depends when they mail their orders in. They mail them in every night.

Q. Have you ever had occasion to observe that your freight even at the present time moves faster from San Francisco to destination than the first class mail moves from the point of origin to San Francisco?

A. Well, that I wouldn't say. I know mail can be obtained probably a day or so and freight can also.

Q. You cover the territory about every two weeks, you say?

1467 A. About every two weeks. At times they probably can make it a little sooner. It all depends how fast—if they are not held up anywhere, naturally, it is sooner.

Q. And, naturally, the orders of your dealers are presumed to be large enough to cover their two weeks' requirements?

A. As a rule. You see, sometimes they may call on a dealer and he may have enough stock in there which may not require a freight shipment. And, of course, if he can get around there sooner on the following trip, why, he may then get a stock, maybe it has run down that time and he has enough fillers for the freight shipment. We try to make each dealer get a hundred pounds or over.

Q. Do you use truck service exclusively?

A. I have been; yes. Well, I wouldn't say "exclusively," but I have the majority of the shipments. The majority of the shipments have been through truck.

Q. Is there any territory which you serve where you use rail service exclusively?

A. Yes. Some parts up—I use the P. M. T.; Southern Pacific. I use them where I can't—where there isn't any truck service, and also I use them where there is too many transfers to be made by truck where I find it much easier to ship by rail at the same rates.

Q. Do you use them in any case where there is a rate advantage by rail?

A. No.

1468 Q. Are you using the service of this applicant in conjunction with Consolidated Freightways at the present time?

A. Yes.

Q. Have you ever had occasion to complain to this applicant concernings its service to points on Highway 99?

A. Well, we have had a few complaints.

Q. Have you ever complained?

A. I have complained; yes.

Q. And how recently have you made such a complaint?

A. Well, I will say about a year ago the last time when a shipment went up into Oregon there where, of course, probably I should have sent it by express, I don't know. They always want it in such a hurry that, of course, the dealer didn't get the merchandise in the nick of time where they solicit these industrial places, and they had to have the merchandise at a certain date and they got it the following day.

Q. That is the only occasion you recall within the past year of having complained?

A. Yes; that is right.

Q. And that was in an emergency or rush shipment?

A. Yes.

Q. Have you made any investigation to ascertain what other motor transport service is available between the San Francisco Bay Area and points on Highway 99?

A. Yes; I have.

1469 Q. Have you used any other service?

A. No; I haven't. I have used Oregon-Cal. since they started, and I think it was in 1930 or '29 or sometime around there. I have used them ever since. The reason for that, gentlemen, is that we have so many truck lines coming in and so many different freight spots in the warehouse that you have too many truck lines coming in and, why, it makes too much work all the way through. It ties up the help and everything else. Therefore, I have found Oregon-Cal. satisfactory and I couldn't see why we should use other lines that make probably the same territory.

Q. Did you make any inquiry to ascertain whether other lines were giving more direct or faster service?

A. Well, I have a solicitor now and then and I get all their rate sheets and whatever they have and, why, if I find that they have anything better to give, why, I make it my business to see that they get it.

Q. Did you know that Pierce Auto Freight Lines were giving daily through service to the territory at the present time?

A. I do.

Q. Have you tried that service?

A. I gave them a few shipments probably about twelve years ago.

Q. But you haven't given them any during recent months?

A. No; I haven't. I haven't given them any.

1470 Q. Have you any reason to know whether or not their service would meet your present needs?

A. Well, the reason why, I find at times Pierce have a lot of connecting carriers, and by having connecting carriers, why, it just de-

lays your merchandise. And we pack our merchandise also in cartons up to a hundred pounds, and if they are handled too much they break out in the corners. If anything is stacked on them too much, it is too heavy and it breaks your corners down. And, of course, the cartons all meet the specifications in weight.

Q. I have been talking to you about the through service of Pierce Auto Freight Lines to all points on Highway 99 to and through Portland.

A. Oh, I see.

Q. Which is the same type of service as, I understand, this applicant proposes.

A. Yes.

Q. I am wondering what difference you would expect in the service of this applicant than is now available to you by way of the Pierce Line, which you say you are not using?

A. I am not using Pierce, no. But I wouldn't—of course, I find, as I say, the reason we are not handling it through Pierce is we have been doing business with Oregon-Cal. If they can give the service, why, that the Pierce has been giving, why, there is no use to use Pierce.

1471 Q. It is largely a matter then or entirely a matter of personal preference on your part dealing with one carrier shipping to all points rather than to deal with two carriers?

A. Well, not exactly. I find it concerns giving the service without any complaints from your customers. I think that is a big feature right there.

Q. Do you know whether that fact exists so far as the Pierce service is concerned?

A. Well, I couldn't say. No doubt it would be. I haven't tried them to find out.

Mr. ELLIS. I suggest you try them.

The WITNESS. May I add a word? Pierce, I haven't seen a Pierce solicitor for the last ten years. I don't know if they are still operating or not. If it wasn't I was in the shipping business long enough to know that they are, I'd think they are out of business.

Mr. ELLIS. That is all.

By Mr. GLANZ:

Q. Mr. Ferrero, does it make any difference to you, aside from this fact that you mentioned centering around the congestion at the terminal, who renders this service on U. S. 99 from San Francisco?

A. Up the 99 Highway?

Q. Yes.

A. Oregon-Cal., I have been using them up through there.

Q. I say, Does it make any difference what carrier renders
1472 the service so long as it is satisfactory?

A. No; no. So long as it is satisfactory we don't care who gets it. We would just as soon give it to Oregon-Nevada or Pierce or anybody else if the service is in there.

Q. And did you make any investigation recently with respect to the existence or nonexistence of other carriers operating between San Francisco and Portland serving intermediate points on 99?

A. Well, we have had the Pacific Truck Line in there once. Of course, they haul merchandise in from one of our buyers out of McMinnville—the Wells Lamont Glove Manufacturers there—from which we buy a lot of merchandise from. In fact, we job all of their gloves. But as far as soliciting any business at that time, there agent—I don't recall him ever coming in an' soliciting it.

Q. You have made no independent investigation on your own behalf to determine before you concluded to support the applicant in this proceeding what services were actually existent in this territory?

A. Well, I have a fairly good idea of what exists through there.

Q. What I mean, Mr. Ferrero, is that when you were asked to testify in this proceeding you didn't await giving an answer to the person who contacted you until after you had made an investigation to determine whether or not there were other

1473 services?

A. That's right. That's right.

Q. I was interested in your statement to the effect that you would like to deal with one carrier because of the congestion at your terminal at San Francisco. Did I correctly understand you in that respect?

A. Yes.

Q. Do you ship to other points besides Lakeview, Coos Bay, and the points on U. S. 99 as far as Portland, other points in either California or Nevada?

A. Yes. We cover them all. We cover all Idaho, Oregon, Washington, Utah, and Nevada.

Q. Have you ever had occasion to ship——

May I have your permission, Mr. Berol, to ask a preliminary question which does not necessarily relate to this proceeding?

Mr. BEROL. Well, I am neither the Examiner nor the Joint Board, but you certainly have my permission.

Mr. GLANZ. Thank you.

By Mr. GLANZ:

Q. Did you ever ship into Arizona?

A. No; we don't. That is handled out of our eastern office?

Q. Did you ever ship intrastate to Los Angeles?

A. I would say that we do ship a couple of times right there on the border of Arizona.

Q. Did you ever ship intrastate to Los Angeles?

1474 A. Yes; to Los Angeles we ship.

Q. In connection with this congestion at your terminal, did you ever make any investigation to determine whether or not there were an operator operating between Los Angeles and Portland?

A. Yes.

Q. Via San Francisco?

A. Yes.

Q. If you could find such a carrier wouldn't that lessen the congestion at your terminal at San Francisco?

A. May I get you straight on that? You mean ship by way of Los Angeles?

Q. No. Inasmuch as you are shipping both south and north out of San Francisco——

Mr. BEROL (interposing). Just a minute. I want to bear with counsel. I want to give him all the latitude that he may want, but I think he is going beyond the factual situation here. I don't know of any carrier that is authorized to render a common carrier service between San Francisco and Portland in interstate traffic and at the same time a common carrier service between San Francisco and Los Angeles in intrastate traffic. Now, if such facilities were available——

Mr. GLANZ (interposing). I will strike the question with respect to intrastate traffic.

By Mr. GLANZ:

1475 Q I will ask the witness if in connection with his Arizona shipments it wouldn't reduce congestion at your San Francisco terminal if you had one carrier that could handle your interstate south-bound and your interstate north-bound shipments?

A. Well, as I say, out of Los Angeles alone we don't do much down in Arizona. That would practically leave me out on any freight shipments into Arizona. There may be a little parcel post down through there, but that is all.

Q. No truck shipments south?

A. No.

Mr. GLANZ. I think that is all. Thank you.

By Mr. FARRENS:

Q. Do you ship to points north of Portland?

A. Yes.

Q. Do you ship to points north of Portland by rail or by truck?

A. Well, I have used rail a great deal. I have used truck a great deal.

Q. You ship to Seattle?

A. Yes; sir.

Q. Do you ship to Seattle by truck or by rail or both?

A. Well, I have used truck; that is, truck to Portland in care of the Pacific Highway out of Portland to Seattle.

Q. Does the majority of your shipments to Seattle move by rail?

A. Yes.

Q. Is that because of the differential in the rail rate
1476 under the truck rate?

A. No, not so many transfers. That's the only reason.

Q. Do you ship to Coos Bay points by rail and truck both?

A. Yes.

Q. Were you aware of the fact that Pacific Truck Express now gives and for a long time has given a through all-truck service from San Francisco to Portland and Coos Bay points?

A. Yes; I am.

Q. But you have not seen fit to use that through service?

A. No; I haven't. As I stated before, as far as rates, I don't see any betterment in the service than what the Oregon-Cal. has been giving. So I couldn't see any reason why I should change.

Mr. BEROL. May I inquire of counsel at this time as to whether the service offered by the Pacific Truck Express as explained to counsel pursuant to my request at a prior hearing has been changed? If my recollection serves me correctly, at that time pursuant to a demand to furnish the information as to the type of service performed by the Pacific Truck Express counsel informed the record that they were not intending to perform a through truck service between San Francisco and Portland, but that the service would be performed in segments by coordination with rail, but that trucks would run over all miles on the highway over which the Pacific Truck Express operates.

1477 Mr. FARRENS. Also——

Mr. BEROL (interposing). Now, let me finish.

If that statement, as I understand it, is correct then it does not involve a through truck service between San Francisco and Portland and counsel is now talking to the witness about a through truck service.

Mr. FARRENS. My statement is in the record and I assume counsel has a transcript of the previous record and can read it. He has misunderstood my statement, and I refer to my statement in the transcript for a correct statement of my position. The fact is that we are operating and we were then operating and are still operating a through truck service between San Francisco and Portland and between San Francisco and points in Oregon intermediate between San Francisco and Portland.

Mr. BEROL. I take it that counsel's position now is still the same as it was the day counsel made the statement for the record?

Mr. FARRENS. Precisely.

By Mr. FARRENS:

Q. Then, if I understand your position, it is that a through service such as rendered by the Pacific Truck Express is of no advantage to you as compared with the joint service of Oregon-Nevada-Cal. Fast Freight and Consolidated Freightways?

A. You mean a through service by the Pacific Truck?

1478 Q. Well, a through service by any competent carrier is not advantageous to you as compared with the joint service of Oregon-Nevada-California Fast Freight and Consolidated Freightways?

A. Well, yes; it would.

Q. Then why haven't you used it?

A. Well, as I stated before—as I believe I stated before—the reason that I had been using the Oregon-Cal. for a good many years and they have, if I remember right—rightfully—it is not long since they have started in business, the Pacific Truck. And as far as the service has been satisfactory by the Oregon-Cal., why, until we found out just who the Pacific Truck is at that time before the Southern Pacific bought them out, why, we would like to know if they have insurance and whatever they carry is satisfactory and the dealer has a protection before we give them service.

Q. Mr. Ferrero, Southern Pacific Company acquired Pacific Truck Express on July 1st of this year. Since that day there has been no question in your mind with respect to any responsibility, has there?

A. No.

Q. And they have since that date maintained a through service between Portland and San Francisco and intermediate points in Oregon south of Portland. Have you seen fit to patronize that since July 1st?

1479 A. Well, I have used the P. M. T., but not the Pacific Truck Lines.

Q. Well, now, with a through service available to you by Pacific Truck Express, you admit, since July 1st, a service which has been responsible, why have you not seen fit if the interchange service is not entirely satisfactory to patronize Pacific Truck Express?

A. You mean now? Since the Southern Pacific bought it?

Q. Since July 1st; yes.

A. Well, that—I would say that that has only been about three months.

Q. About three months and a half.

A. About three months and a half.

Q. Are your necessities for through service so slight that after three months and a half you still are continuing to use the interchange service at Medford?

A. Yes; still have.

Q. It is not a matter of much importance to you, then, whether the service is a through service or not, is it?

A. It all depends. In some cases where probably if a dealer is in a hurry for his merchandise, where as a rule he is, why, then, we either ship it out by express or else let it go via the Oregon-Cal. Fast Freight. Of course, as I say, I have disregarded the Pacific Motor Transport.

1480 Q. Well, have you had any instances where in the past three and a half months the through service would be desirable as compared with the O. N. C. service?

A. Yes; I think it would.

Q. And what did you do about it? Did you send it via O. N. C. notwithstanding the connection at Medford?

A. Yes; I have.

Q. Well, if Pacific Truck Express is operating a through service and continues for some time to operate a through service, do you propose to switch over from the joint service of Oregon-Nevada-California Fast Freight?

A. Not entirely. I would say, Pacific Truck, they could ship that by rail probably into Medford and then ship it by truck out, where you would have your same joint connections as the Oregon-Cal. or other freight lines that is going through there now.

Q. There is a through operation between San Francisco and Portland?

A. Yes; through San Francisco to Portland. Yes; I know that.

Q. All truck?

A. Yes; I know.

Q. Are your necessities for a through service such as would cause you to switch from the present joint service of O. N. C. and Consolidated to Pacific Truck Express from now on?

1481 Mr. BEROL. May the record show that I am objecting to this question and this entire line of examination upon the ground that it assumes facts inconsistent with what counsel stated to be the proposed operations of Pacific Truck Express.

Mr. FARRENS. I deny any inconsistency in the statement.

Mr. BEROL. The record will show whether it is or not. I have looked for the record, but I could not find in the transcript exactly where it is.

Chairman TERRIL. The record will show your objection. The testimony will be received subject to the objection.

By Mr. FARRENS:

Q. Do you remember the question, Mr. Ferrero?

A. Yes.

Q. What was your answer?

A. Well, as far as the through service right into Portland, I don't see why there wouldn't be any reason why we would not use it.

Q. You, therefore, having found that it is available and the carrier is responsible, expect to use it from now on?

A. Yes.

Q. And how about service from San Francisco to points like Roseburg?

A. Roseburg?

Q. Eugene, Grants Pass, Salem, and Albany? Would you use the Pacific Truck Express with the information that you now have in preference to the Oregon-Nevada-California service to those points?

A. Yes.

1482 Q. We will have the solicitors around to see you right away. Now, Mr. Ferrero, how long have you been steadily and consistently using the O. N. C. service from San Francisco northward?

A. Oh, I would say since 1930, I think it was.

Q. Has the service which that company has been rendering to you on shipments to points north of Medford been poorer since December 1938 than it was prior to that time?

A. No; I wouldn't say.

Q. How about your loss and damage claims on such shipments?

A. We never had any?

Q. You never had any?

A. No.

Q. So that your loss and damage claims are just as satisfactory since December 1938 as they were prior to that time?

A. That's right.

Q. Then the transfer of lading which has been occurring at Medford between this applicant and its connecting carrier has not been a source of damage claims to you people?

A. No. The only complaints we have had from dealers is probably the merchandise that is packed on top of a box and shaking. Sometimes it just rubs the top of the garments. In other words, it takes the glue off of the denim there and, of course, they send that back and they claim that is—that is the only damaged part we ever had in a shipment.

1483 Q. That damage occurs while the truck is rolling, does it not?

A. Well, some claim it does and some claim that it is from

handling too much, so I think it is really probably the fault of the packer. It could be that, too. If he packs it too loosely, why, it would be his fault.

Q. Have you had any complaints from your shippers with respect to the service which O. N. C.-Consolidated Freightways are now giving?

A. No. The only thing, a lot of dealers through there, they send mail orders in or a salesman, they specify Oregon-Cal.

Q. I am talking about complaints. You haven't had complaints about the joint service?

A. No.

Q. During the past year have you had any shipments from San Francisco to Lakeview which have taken six or seven days?

A. No; not in the last year I haven't.

Q. Did you have during——

A. (Interposing.) I have them previously.

Q. Did you have during 1939?

A. No. I will say nineteen thirty—probably '38 or probably the first part of '39; I don't know which.

Q. And how many such occasions occurred in '38 or the first half of '39?

A. I beg your pardon?

Q. How many such occasions where there were six or
1484 seven days in transit occurred in 1938 or the first part of 1939?

A. Well I only had one at that time from Lakeview Mercantile, and he is a tough egg!

Q. Did you ascertain what was the cause of that delay?

A. Well, yes.

Q. What was it, Mr. Ferrero?

A. I found out that the shipment went down to Portland and from Portland it went up to Lakeview.

Q. That was a case of misrouting?

A. Yes. It wasn't the routing of the concern. It was the truck driver, I presume.

Q. Was that a truck line routing?

A. Well, we say it was.

Q. I am at a loss, Mr. Ferrero, to understand how railroad service between San Francisco and Lakeview was involved in that service.

A. Well, I don't know. That was shipped out by rail out of San Francisco and somehow it got misbilled or something went wrong. I don't remember exactly just how the occasion, what it was. But we had to go through a lot of checking around, anyway, to find out just what it was.

Q. Did you find out in the last analysis that the shipment, having been transported by the Southern Pacific Company, was hauled by a truck line?

A. I will say it was hauled by a truck line. It wasn't by
1485 Southern Pacific.

Q. Then the fact is that since 1938 you have had no instances in which there have been unusual delays in rail deliveries to Lakeview?

A. No.

Q. And prior to 1938 had you had trouble on the Lakeview rail shipments?

A. Rail shipments?

Q. Yes.

A. No; outside of, as I say, it's a day or so later than truck. We have found that out. Of course, I notice the routing of the merchant himself up there always wants truck into Lakeview now because he says he gets his merchandise a day earlier.

Q. Mr. Ferrero, maybe I have misunderstood you direct testimony and am doing you an injustice. I understood you to say that you had instances of all rail shipments from San Francisco to Lakeview that took six or seven days.

A. No; not all rail. I would say that it has taken longer than truck into Lakeview.

Mr. FARRENS. That is all.

Mr. BEROL. At this time, if the Examiner and the Board please, I am moving to strike the questions propounded by Mr. Farrens pertaining to through truck service by the Pacific Truck Express between Portland and San Francisco and the answers given
1486 to those questions. I particularly call attention to page 1033 of the transcript in this proceeding. As I earlier stated, at the early part of this hearing I requested a statement from Mr. Farrens as to the intentions of the Pacific Truck Express with respect to whether they would or would not conduct a through service between points in Oregon and points in California.

At page 1033 Mr. Farrens read a statement consisting of five sentences which is the policy, as he expressed it that day, of the Pacific Truck Express. He subsequently gave some considerable explanation of that statement.

First I read from the written statement:

"The statements made by Pacific Motor Trucking Company in the control or acquisition case, that we do not propose to offer a through service from Oregon points to San Francisco, will be adhered to. Pacific Truck Express will continue an operation which will fully protect its Oregon-California rights. Changes that may be required to fulfill those objectives, while furnishing service at least equal to the service now maintained or improve-

ment of same, are now being studied for determination of the best method of operation. No definite date for changes to accomplish this end can now be said. When the changes have been determined they will be announced publicly."

In his explanation, among other things, Mr. Farrens says——

Chairman TERRIL (interposing). Page of the transcript, please, Mr. Berol?

1487 Mr. BEROL. 1033.

"There is among the operating and traffic officials of Southern Pacific interests a strong desire in the case of a large number of them to continue permanently that through service. If it should be decided by the Commission that there is any insufficiency of through service I haven't any doubt but what that would influence the opinion of Southern Pacific Company officials and its affiliates' officials as to the desirability and continuity of such service. But I can assure this Board and Examiner and, through you, the Commission that no such decision or reversal of the present decision which would result in carrying out an intention of maintaining through service will be taken without previously giving the Interstate Commerce Commission frank, complete, and entire notice on the subject."

Now, then, either one of several situations is true here. In the first place, in the acquisition case officials of the Pacific Motor Trucking Company advised the Commission that no through service would be continued. Upon the consummation——

Mr. FARRENS (interposing). I challenge that statement. I challenge the accuracy of that statement as put by counsel.

Mr. BEROL. I will supply the transcript and the page number of the acquisition proceeding this afternoon, then.

In the meantime, assuming that that statement is correct,

1488 after the commencement of this hearing and after counsel talks about Pacific Truck Express service as a through service, and after I demanded a plain, clear statement of intention as to what the policy of the Pacific Truck Express Company be, counsel now comes in and reads a prepared, unequivocal statement that no through service will be conducted.

Mr. FARRENS. That is untrue. That can be seen by a reading of the statement itself.

Mr. BEROL. Counsel, will you permit me to finish?

Mr. FARRENS. Yes. But I would like to have you adhere to the facts.

Mr. BEROL. And in order to adhere to the facts I am going to read from the statement which you yourself read.

Mr. FARRENS. It isn't necessary.

Mr. BEROL. I am again referring——

Chairman TERRIL (interposing). One at a time, please. Will you please let Mr. Berol finish?

Mr. FARRENS. I will be glad to do that but, if it please the Chairman, that statement is now twice in the record and it isn't necessary to have it in the third time.

Chairman TERRIL. I agree with you there. I don't think there is any necessity of reading it again.

Mr. BEROL. Now, then, we are faced with this situation: Counsel made a specific statement as to what would be done,
1489 and I am reading from counsel's own words based upon a written statement.

Now, either one of two things is true: Either the representations made at that time and place, namely in San Francisco on August the 6th, 1940, have not been adhered to, and if they have not been adhered to, then perhaps a through service is in operation, and in that instance the question would be proper. Or, on the other hand, if the intention, as expressed by counsel as to what the Pacific Truck service would be, has been adhered to, then I say that the questions are improper and both the questions and the answers should be stricken.

Mr. FARRENS. In reply to counsel's motion, I want to say this to the Commission: That my statement consisted of five sentences and we were talking about what Southern Pacific Company and Pacific Truck Express proposed to do in the future. I have been examining this witness about what Pacific Truck Express has been doing in the past and what it is doing now and what it may do within the very immediate future. There has been no lack of good faith on the part of Southern Pacific Company. Southern Pacific Company does propose, as soon as it can readjust and coordinate the relations between Southern Pacific rail operations and Pacific Truck Express, to discontinue the through service that has not yet been discontinued, and there is no lack of good
1490 faith on Southern Pacific Company or Pacific Truck Express involved in that fact. But it can't all be done in a few months.

Now, the Chairman, at least, of this Board knows something about the things that have been done, the tariffs that have been filed, the intrastate coordination that has already been accomplished in Oregon south of Portland on the Pacific Highway. These things can't be done overnight. And I very definitely said in this part of the transcript to which counsel is referring, first, that I was expressing only my personal conclusions and not the conclusions of the management except in respect to the five sentences which I read. And I very definitely said both in the five sentences that I read and in my personal statements later that the through service would be continued until a coordinated

rail and truck service which was equal to or better than the present through truck service had been arranged between the two companies.

Mr. BEROL. I want this much understood in connection with that: I am not for a minute questioning counsel's good faith. I am referring to the record, and there can now be no question about the record being clear that the statement given to us was that there would be no through service, and that statement was given over two months ago and that is why this morning I objected to the question involving a through service of this operation.

Mr. FARRENS. It may be next week or it may be next
1491 month or it may be longer than that before the through service is abandoned. But the Company is proceeding in good faith to make the necessary coordination and reallocation with the result of its ultimate abandonment.

Chairman TERRIL. I think we can settle the whole matter. We will leave the testimony stand as it is, in view of the explanation of the record, and it will be accepted for what it is worth.

Any further cross-examination of this witness?

By Mr. IVERS:

Q. Have you made any investigation as to the existence of through services from San Francisco to Portland and points north of Portland?

A. Yes.

Q. Do you know whether any such services exist?

A. Yes.

Q. In spite of the knowledge that such services exist, you have continued to use a service which required a transfer to Pacific Highway Transport at Portland?

A. Well, I won't say all of Pacific Highway to Portland. That is into Seattle. But I have used the Inland Motor out of Portland for Spokane and up through there and Idaho points——

Q. (Interposing.) And——

A. (Continuing.) Washington points.

Q. And that also required interchange at Portland?

A. Yes.

1492 Q. And you have not found that unsatisfactory?

A. Well, I have; yes. I have found it getting in there faster than some rail service than I would get in some of those points up into the north.

Q. I say, you have not found it unsatisfactory?

A. No; I haven't.

Q. And you haven't found it unsatisfactory to the point that you have been influenced to use some of the through services to Seattle?

A. Well, there isn't any such through service to Seattle that I know of.

Q. Out of San Francisco?

A. Yes.

Q. I thought you said you had made such an investigation and you knew that there were through services?

A. No. I said that—I probably misunderstood you. But as far as I know there isn't any through service into Seattle out of San Francisco.

Q. And if there are any it would indicate that you haven't made very much of a search, is that right?

A. Well, if there was any that was involved I would sure know about it.

Mr. IVERS. That is all.

Chairman TERRIL. Any further cross-examination? No. Response.)

1493 Mr. BEROL. That is all, Mr. Ferrero. Thank you very much.

(Witness excused.)

Chairman TERRIL. We stand adjourned until 2:00 o'clock.

Mr. BEROL. I might say that we had this morning some 30-odd public witnesses here. We have so far heard two. In view of my anxiety that this matter be completed this week, if possible, the applicant is now not taking any further time with public witnesses and I am at this time excusing all of our public witnesses and, as far as we are concerned, the field will be clear for protestants this afternoon.

Mr. IVERS. I assume that Mr. Schafer wants to put in his exhibits before the protestants start their case?

Mr. SCHAFER. It is just a matter of formality. We can put them in at any time and it would take but a few minutes. There is the testimony of four witnesses who testified before for Oregon-California Fast Freight that I have taken and I am going to introduce physically as an exhibit in the case copies of the transcript of the testimony of those four witnesses.

Chairman TERRIL. 2:00 o'clock, gentlemen.

(Whereupon, at 12:20 p. m. adjourned until 2:00 p. m.)

1494 Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC-8, authorizing extension of operations as a com-

mon carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA,
October 16, 1940, 10: 15 A. M.

Before Joint Board No. 5: C. T. Terril, Chairman; Warren K. Brown, Joseph Starin, H. L. Hanback, Examiner.

Hearing resumed.

1495 Appearances: Same as heretofore noted.

PROCEEDINGS

Chairman TERRIL. Are we ready to proceed?

Mr. ELLIS. I would like to call two shipper witnesses this morning.

Mr. ANDREW THUESEN.

ANDREW THUESEN was sworn and testified as follows:

Chairman TERRIL. The record will show now that we are on the case of Oregon-Nevada-California Fast Freight, which is MC 9115, Sub. No. 1. The testimony from now on, unless otherwise specifically directed, is in the Consolidated Freightways, Inc. case and also the Oregon-Nevada-California Fast Freight case. That is, the Protestants' case is to be consolidated into both cases and incorporated by reference.

Direct examination by Mr. ELLIS:

Q. Your name is Andrew Thuesen?

A. Yes.

Q. What is your place of residence, Mr. Thuesen?

A. Business or residence? 615 38th Avenue, San Francisco.

Mr. SCHAFER. What kind of business?

The WITNESS. Shoe business.

By Mr. Ellis:

Q. With what company are you connected?

1496 A. Shoes; wholesale shoes.

Q. With what company are you connected, Mr. Thuesen?

A. Buckingham & Hecht.

Q. And in what capacity?

A. Assistant manager.

Q. Will you explain the extent and nature of the business of that company?

A. Manufacturing and wholesaling shoes.

Q. Do you maintain a factory and warehouse in San Francisco?

A. In San Francisco; yes, sir.

Q. What general territory do you serve from your factory and warehouse?

A. Everything west of the Rockies.

Q. Do you have occasion to ship your product to points in the northwest?

A. Yes. We have three men working that territory and those orders come in every day.

Q. What forms of transportation do you use in shipping your product to your customers?

A. Rail, truck, and steamer.

Q. How regularly do you have occasion to use the services of common carrier motor lines?

A. Every day.

Q. Do you ship every day to points in the northwest, including points between San Francisco Bay and Seattle, for example?

1497 A. Most every day with the exception of Saturdays.

Q. Could you state for the record something concerning the volume of those shipments?

A. Oh, we ship from three to ten and twelve shipments a day; two cases to five cases on each shipment.

Q. And what is the approximate weight of these shipments or these cases?

A. 75 to about 250 pounds.

Q. Who are your customers to whom you ship?

A. Well, that would be hard to say because anybody in the shoe business we ship to, practically.

Q. Your consignees, then, would be normally——

A. (Interposing.) Shoe merchants.

Q. (Continuing.) Retail stores?

A. All retail stores.

Q. And do you do a substantial business in the territory between here and Seattle?

A. Oh, we think we do.

Q. Are you one of the larger shoe companies serving that territory?

A. On the coast we are.

Q. How long have you been using the services of common carrier truck lines in serving your customers in that territory?

A. Well, that would be hard to say offhand, but as long as the trucking business has been going on we have been serving
1498 by truck a certain amount of our merchandise.

Q. And what truck service have you been using?

A. P. M. T. and Pierce and the Oregon-Cal. I think away up in the northwest we use Consolidated Freight Lines.

Q. Could you state approximately how your tonnage has been divided between those several forms of transportation?

A. Pierce gets nearly all up to Oregon, northern California and Oregon; and beyond that what they don't get Consolidated gets it.

Q. When you say "Consolidated," how does that traffic move out of your San Francisco plant that goes to Consolidated territory?

A. We just route it "Consolidated" and I couldn't say definitely who picks it up.

Q. But if routed Pierce who performs the pick-up service here in San Francisco?

A. The Valley.

Q. By that you mean the Valley Express?

A. The Valley Express.

Q. How have you found the truck service which you have used to points north?

A. Well, the only thing I can explain in that way, I have no kicks from our customers and the deliveries have been very rapid to what they were four or five years ago; overnight deliveries in some places, two days in some places and three
1499 days in others.

Q. You have never had any complaints?

A. No complaints.

Q. Concerning delay and route?

A. No.

Q. Have you ever had any difficulties in getting your shipments picked up with reasonable promptness?

A. They all pick up from 3:00 to 4:00 every day.

Q. Have you found competition keen for your traffic?

A. In what respect?

Q. Well, has there been competition between these several carriers to obtain your traffic?

A. Well, they are always fighting. It is getting so now that we have to tell some of the traffic men to keep out of our shipping department because it interferes with the work of our men. There are so many trucks running in and out these days it is hard to handle them.

Q. Would your convenience and your service be improved or lessened by the addition of another carrier competing with that traffic to northern territory?

A. No; it only complicates things. The more carriers you have coming in—it complicates our shipping department. It makes it hard on our shipping force.

Q. What is the common practice in the handling of your business as to the routing of the shipments?

1500 A. About 60 percent is routed by the purchaser, the balance they leave the routing to us. They mark it "cheapest way" and we use our own judgment.

Q. Have you ever had any complaints from any of your shippers or have you had occasion to complain about the fact that there was an interchange of traffic between Oregon-Nevada-California and Consolidated Freightways at Medford?

A. I never knew of it. I didn't know that such a thing existed.

Q. And about how long have you been using that service?

A. Well, I could almost say ever since they started.

Q. Do you have occasion to make any shipments on Saturday?

A. We are closed on Saturdays, closed up. That's the reason why I said we do not ship on Saturday.

Q. Is that generally true of most of the larger shippers in the San Francisco Bay area, that they close on Saturday?

A. It is getting to be that way. I think about 40 percent are closed in the day and I find out that they are encouraging that more and more, that it looks to me within a short time that they will all close on Saturdays. But that's just what you hear. It is hearsay more than anything else. We are definitely closed.

Mr. ELLIS. You may cross-examine.

Chairman TERRIL. Mr. BEROL?

Cross-examination by Mr. BEROL:

1501 Q. Mr. Thusen, you state that you have been using the Oregon-Nevada-California Fast Freight for about ten years or so?

A. Well, it is almost as long as it has operated, I presume.

Q. As between Pierce and the Oregon-Nevada-California Fast Freight, who handled more of your shipments into the northwest territory?

A. When you say the "northwest" how far do you mean?

Q. Portland, Oregon.

A. Portland, Oregon, they handle about 75 percent of it.
Q. Who does?
A. The Pierce people.
Q. How about considering the territory north of Portland, making it all of Oregon and Washington?
A. That is shipped Consolidated.
Q. All of it?
A. All of it; practically all of it; practically all of it that goes by truck, outside of P. M. T.
Q. When you ship Consolidated you understand that Consolidated operates only as far south as Medford, Oregon?
A. No; we have never been told that.
Q. Do you know whether or not it is the connection of the Consolidated, the Oregon-Nevada-California Fast Freight?
A. No, sir; we don't know. Neither do our traffic men. We ship it Consolidated and it is shipped out that way.
Q. What percentage of your total business is handled by
1502 the Oregon-Nevada-California Fast Freight?
A. Oregon-Cal.?
Q. Yes.
A. I couldn't say.
Q. Do you have shipments to Lakeview, Oregon?
A. Yes.
Q. How do you ship those?
A. Lakefield?
Q. Lakeview.
A. Lakeview?
Q. Yes.
A. I think those are taken by the P. M. T.
Q. And do you know how long approximately it takes for your shipments to get there?
A. No, sir.
Q. Have you been informed that the Oregon-Nevada-California Fast Freight is proposing a direct service to Lakeview, giving service and deliveries at Lakeview the afternoon following departure at San Francisco?
A. No.
Q. Now, there isn't that kind of a service available to you at the present time, is there?
A. Well, we are getting almost 24 hours delivery there now.
Mr. GLANZ. Just a moment, please! I object to the question upon the ground it goes beyond the direct insofar as
1503 Protestant Colletti Fast Freight is concerned.
Mr. BEROL. Well, who put this witness on? Protestant Colletti or Protestant Pierce?

Mr. GLANZ. I don't care who put him on, but I won't be bound by his testimony.

Chairman TERRIL. Just a moment, Mr. Glanz! We have been allowing a rather broad scope of cross examination of all of Applicants' witnesses in this case, and I think that the Board is in a position to allow the same scope of cross examination of Protestants' witnesses that was directed to their case, and I think we will allow the question.

By Mr. BEROL:

Q. Do you recall the question, Mr. Thuesen?

A. Yes; you are going to deliver in Lakeview in 18 hours.

Q. Yes.

A. That is to be seen. We can't tell those things.

Q. Assuming, Mr. Thuesen, that such a service, if authorized by the Commission, will be available to you it is a better service than anything that is available now, is it not?

A. Well, that I can't say.

Q. Well, do you know?

A. You are just promising. If a man makes a promise and then lives up to it, it is a different proposition. We are promised a lot of things by the railroad companies and trucking companies, and so forth, and sometimes they don't live up to it.

1504 Q. All right.

A. Especially on transcontinental shipments.

Q. I am talking about a shipment to Lakeview, Oregon, which is not transcontinental. Have you any reason to believe that a promise made to this Commission will not be lived up to?

A. When you say Lakeview, Oregon, into that situation we only ship there about once a month and it is away out of the beaten path and it is pretty hard to say how you will handle a thing like that. But if you are on the main lines it is a different proposition.

Q. Do you ship into the Coos Bay area, Marshfield and Coquille?

A. Yes.

Q. How frequently do you ship there?

A. About twice a month.

Q. Have you been informed that the Oregon-Nevada-California Fast Freight is proposing a similar service to Coos Bay making deliveries there the following afternoon after departure at San Francisco?

A. No.

Q. Do you have that kind of a service available to you now?

A. I think it is 24 hours there, too.

Q. Are you here objecting to the institution of that kind of a service to Lakeview or Coos Bay?

A. No; I am not objecting to any service, but I am objecting

to the more trucks you bring into a wholesale house in San
1505 Francisco and the more complicated it gets for our men to handle those things and the more solicitors come in, takes away from our time.

Q. Let me ask you, The Oregon-Nevada-California Fast Freight at the present time is making pick-ups at your place of business, is it not?

A. Yes.

Q. Have you been informed that the purpose of the application here of the Oregon-Nevada-California Fast Freight is to be enabled when it makes a pick-up in San Francisco that, if the delivery goes to Salem or if it goes to Eugene or if it goes to McMinnville or if it goes to Portland, Oregon, to transmit that shipment all the way through on its own trucks without interchange at Medford, as it does at the present time? Has that information been given to you?

A. Yes; it has.

Q. Since the Oregon-Nevada-California Fast Freight already makes pick-ups at your place of business, and I presume their salesmen already call on you, the difficulty that you mentioned of additional truck lines coming into your place of business won't be encountered here, will it? It will be the same truck line?

A. It will be the same truck line, but it adds to the different segregations which you have today.

Q. Why does it add to the segregation if on shipments
1506 that may go to those points in Oregon they are taken by one carrier and carried all the way through rather than taken by one carrier and transmitted to another carrier at Medford?

A. Well, that's something we were ignorant of before. We always thought the Consolidated Freight Lines took that all the way through.

Q. In other words, you weren't advised of that until this morning, were you?

A. I didn't know that.

Q. Bearing in mind that Consolidated does not pick up your merchandise in San Francisco; bearing further in mind that that is picked up by the Oregon-Nevada-California Fast Freight and tendered to Consolidated at Medford; bearing further in mind that the Oregon-Nevada-California Fast Freight is seeking only permission to run its trucks through as far as Portland, Oregon and Vancouver, Washington instead of stopping at Medford, Oregon, can you tell me any particular in which that might be of any disadvantage to you in the conduct of your business?

A. Well, if it is going to add to the segregation of routings,

our shipping clerk has to look up all those truck lines and see what one to ship it over.

Q. Is it going to make it more difficult for your shipping clerk to ascertain that the Oregon-Nevada-California Fast Freight runs all the way through to Portland instead of going
1507 only to Medford, Oregon?

A. He will have to show that in the records and he will have to look it up.

Q. Once he looked it up he will know that it is true for all time to come, would he not?

A. Oh, no. Every shipment that comes in they have to look up the routing which the man has had heretofore. You can't just give it to this trucker and the other trucker. We have separate routings for every account, how they prefer to make their shipments.

Q. Let me ask you one further question: Based upon your experience with the Oregon-Nevada-California Fast Freight would you say that they are a good or a bad trucking company?

A. I couldn't say either trucking line, any trucking line because we have had no complaints from our customers. That's the only way we get our complaints, from our customers.

Q. Based upon the fact that you have had complaints from your customers would you then not say that, insofar as you are concerned, the service of the Oregon-Nevada-California Fast Freight is as efficient and as responsible as that of any other truck line that serves you?

A. I presume it is because we don't ship very much over them.

Mr. BEROL. That is all.

Mr. SCHAFER. Just a minute! I have a few questions.

1508 By Mr. SCHAFER:

Q. Do you directly supervise the shipping of your plant?

A. Yes; supervise everything.

Q. Just what contact do you have with the routing of freight? Do you tell the shipping clerk what lines to use?

A. The shipping clerk comes to me and ask me what lines they prefer when they are not routed. About 60 percent of our stuff is routed before we get the order.

Q. You have no choice in those cases?

A. No; we have no choice. The customer has to pay the freight and it is up to him to route.

Q. Are your shoes shipped in wooden cases?

A. Paper cases.

Q. Paper cases. And Pierce gets all of traffic?

A. About 65 percent.

Q. About 65 percent?

A. Yes.

Q. Who gets the rest of it?

A. Well, Consolidated gets it.

Q. Have you ever seen Consolidated pick-up truck at your door picking up a shipment, say, for Seattle?

A. Well, how they are picked up I couldn't say, but their wagon drops in there away back in Idaho, Montana, and Utah.

Q. Does your shipping clerk tell you that Consolidated picks up shipments for Seattle?

1509 A. I see them there. I go down to the shipping room four or five times a day to see who is coming in and out of our institution.

Q. To Seattle in a Consolidated truck?

A. Not to Seattle. I don't know if they go to Seattle or not, but we ship Consolidated.

Q. You understand that they have a route of San Francisco for Twin Falls, Idaho, which connects with Montana?

A. Yes.

Q. Do you ship into that territory, too?

A. Yes.

Q. How long have you been giving Pierce this 65 percent?

A. They have been getting it about three or four years, I guess.

Q. Three or four years. If I tell you that before June 23 of this year, just a few days before the first hearing in this matter, Pierce had service only once a week——

A. (Interposing.) Once a week?

Q. That was satisfactory for your needs?

A. No, it wasn't satisfactory.

Q. But you have used him for three or four years?

A. When the Valley started soliciting them for that routing up north we gave it to them. When they go to the Valley we give it to the Valley. When they go to Nevada we give it to the Val-

1510 ley. Valley gets 50 percent. It cuts down truck lines coming into our place.

Q. For the purpose of the record who is "Valley"?

A. The Valley Express.

Q. Who are they?

A. I think you know who they are. They are pick-up truckers.

Q. Just state for the record please, who the Valley Express is and what their business is.

A. They pick up for Nevada and they pick up for California and they pick up for Oregon and they pick up for Los Angeles. They handle all that merchandise.

Q. Is that all they do, pick up freight?

A. That's all they do. Pick up freight, as far as I know, is all they do.

Q. You don't know whether they have any line-haul operations?
A. What do you mean by that?
Q. Oh, intercity operations?
A. I don't get you on that.
Q. Do they operate between two cities or is their operation entirely in the City of San Francisco?
A. No; they operate down the Valley, they operate down the coast to certain points and we give it to them on nearly all of our Los Angeles freight. They handle that for us.
Q. They transport that between San Francisco and Los Angeles?
A. And Los Angeles.
Q. And do they represent Pierce here?
1511 A. As far as I know they do.
Q. When you want Pierce's service you get in touch with the Valley?
A. We ship to Oregon and ship to Medford, we mark it "Valley Express" and they take it.
Q. You mark it "Valley Express" and Pierce gets it?
A. Yes.
Q. You understand——
A. (Interposing.) Sometimes we get them to come in Pierce Express Freight Lines and the lley picks that up.
Q. You route Pierce and the picks it up, too?
A. Yes.
Q. Pierce does not come to your place of business with its own vehicles?
A. No.
Q. Consolidated and Oregon-Nevada-California do?
A. Yes.
Q. I take it you would be in favor of just one carrier in each direction, is that right?
A. Yes.
Q. So that you would have the very minimum of congestion?
A. Absolutely. It would make it easier on the shipping clerk, too.
Q. You understand, don't you, that Pierce does not serve Klamath Falls?
1512 A. Yes. P. M. T. gets that.
Q. That is the railroad, is it?
A. Well, I think the Southern Pacific operates it.
Q. You do not know whether that moves truck or rail?
A. I couldn't say. That is something I can't say.
Q. Do you know that there is only one motor carrier between San Francisco and Klamath Falls, only one regularly scheduled motor carrier?
A. Who is that?

Q. I asked you if you knew?
A. No.
Q. You don't know?
A. No.
Q. Do you know of any carrier other than Oregon-Cal. or Oregon-Nevada-California Fast Freight that has a daily service for the transportation of your commodities between San Francisco and Klamath Falls?
A. P. M. T. will give us fast service.
Q. That is the rail?
A. I don't know whether it is rail or not, but they are giving us fast service; as fast as truck these days. We can ship P. M. T. from San Francisco and deliver it in Los Angeles 10:00 o'clock the next morning. We get the same thing on trucks.
Q. How do you ship to Spokane?
A. By rail, or we ship Consolidated.
1513 Q. Do you know what service you get to Spokane?
A. I couldn't say.
Q. Do you know whether it is third morning, fourth morning, or fifth morning?
A. It has generally been third morning to Seattle and Spokane.
Q. And do you ship to North Idaho points?
A. Yes.
Q. Do you know what service you have been getting there?
A. About fourth morning up there.
Q. How about such Montana points as Great Falls and Havre?
A. I think that goes Consolidated.
Q. That is routed through Twin Falls, is it?
A. Yes.
Q. Or do you know?
A. Most of that Montana stuff goes Consolidated.
Q. You don't know how it is routed?
A. No; I couldn't say.
Q. That is picked up at your place of business by Consolidated and they transport it out of San Francisco?
A. Out of San Francisco.
Q. Is a day or two faster service of any value to you in your business?
A. Well, it all depends. During the week, I couldn't say. If it goes out on Friday it is delivered Monday morning anyway.
Q. Suppose it goes out on Monday, is it of any particular
1514 value to you to have any faster service than you have now?
A. No; I don't think so.
Q. If it appeared to you as a result of the granting of the rights which Consolidated here seeks, the whole territory of Montana, North Idaho, Eastern Oregon, Eastern Washington, and Central

Washington and points north of Portland, such as Seattle and Tacoma, would receive second morning service instead of the present third morning service, would you say that that would be a good thing for the merchants generally in San Francisco?

A. I couldn't say offhand.

Q. You wouldn't undertake to say as a merchant of San Francisco that a 24-hour faster service to all that territory just described——

A. (Interposing.) How will we get that 24-hour faster service? It doesn't take that long to unload a truck and reload it. I know when it is hauled down to Los Angeles we ship here at 5:00 o'clock at night and 10:00 o'clock the next morning it is delivered there and there is a reload at Bakersfield.

Q. I will ask the question again. Assuming that the proposal here is to inaugurate a faster service through Klamath Falls to Spokane, North Idaho, Eastern Oregon, Eastern Washington, a route which would be 150 miles shorter and where no through service now exists——

A. (Interposing.) Wait a minute! I think Cotant has got that.

1515 Chairman TERRIL. Wait a minute! Let us have the question, please.

Mr. SCHAFER. Will you pick up the question, please?

(The question referred to was read by the reporter.)

By Mr. SCHAFER:

Q. And assume that that is the proposal here on the part of Consolidated and that whole territory will as a result of that improved service receive a 24-hour faster service, would you say that, as a merchant of San Francisco, familiar with the needs of this community generally, that would or would not be of value to you?

A. It would be of value. But when you say there is no service today, the Cotant make a little faster service to Montana and Idaho.

Q. If I tell you that Cotant operates between San Francisco and Pocatello, Idaho, that they don't get into North Idaho at all, you don't know where they run——

A. (Interposing.) I know they run to the northwest. They make pretty fast time. They don't make the coast at all and they run into Salt Lake and they go into the other way.

Q. You don't know what their arrival times are there?

A. Salt Lake we make second morning deliveries.

Q. Salt Lake; yes. How about Havre, Montana?

A. You are getting so technical I wouldn't say, because I wouldn't want to commit myself.

Q. Any of these Montana points?

A. I think they are advertising third morning delivery
1516 when they don't go the coast route.

Q. You are not really sure what service they are giving now?

A. No.

Q. Is your preference for Pierce Auto Freight governed by any personal friendship?

A. Well, we give most of our stuff to the Valley because it is personal friendship to a certain extent and they give us damn good service. That's the principal thing.

Q. You thought all of the lines operated through without transfer?

A. Yes; we didn't know a thing about that.

Q. Did you receive a letter from Pierce Auto Freight inviting you to appear here?

A. No. They phoned last night and I come out here this morning.

Mr. SCHAFER. I think that is all, thank you.

Redirect-examination by Mr. ELLIS:

Q. One more question. So far as shipments via the Pierce Line are concerned would you say most of those are the result of consignee routings in the destination territory?

A. About 60, 65 percent are consignee routings. The others we control.

Mr. ELLIS. That is all.

Chairman TERRELL. You are excused Mr. Thuesen. Thank
1517 you very much.

(Witness excused.)

Mr. ELLIS. Mr. Howry.

ROBERT H. HOWRY was sworn and testified as follows:

Direct examination by Mr. ELLIS:

Q. Your name is Robert Howry?

A. Robert H. Howry.

Q. You spell that H-o-u-r-y?

A. H-o-u-r-y.

Q. And you reside in San Francisco?

A. San Francisco; yes.

Q. With what company are you engaged?

A. Blake Moffitt & Towne, wholesale paper company.

Q. And what position do you occupy with that company?

A. I am Traffic Manager in San Francisco.

Q. And how long have you held that position?

A. Twenty years.

Q. Will you describe a little more fully the business of Blake Moffitt & Towne?

A. Well, it consists of paper jobbing, paper jobbers; I think, wholesale paper. I think that describes it.

Q. At what points on the Pacific Coast do you maintain warehouses or branches?

A. I believe there are seventeen all together from Spo-
1518 kane in the north to San Diego in the south, Phoenix, Tucson, Arizona, and so forth.

Q. Where is your principal source of supplies from which you furnish stocks to your various branches?

A. Wrapping paper comes from the northwest, Portland and Washington; and the fine papers, printing paper, come from eastern points, Massachusetts and Ohio.

Q. Where do you maintain your principal stock here on the coast? You have a principal warehouse in San Francisco from which you supply the northwest?

A. No. Each of the principal divisions, as we call them, in the large cities: Seattle, Portland, Los Angeles, and San Francisco. They carry complete stocks.

Q. What territory do you supply from your San Francisco warehouse?

A. Oh, as far north as Healdsburg, as far east as Oakland, as far south as Sunnyvale.

Q. The northern point, I didn't just get that.

A. At Healdsburg, California, or Santa Rosa.

Q. Do you have occasion to make any shipments from the San Francisco area to points in the northwest?

A. Only on the orders of our branches in those territories.

Q. And what is the occasion for making the shipments out of the San Francisco warehouse instead of out of the northwest branches?

1519 A. Only on stock that the other houses do not carry or is out of.

Q. How frequently do those situations occur?

A. Oh, not frequently; probably once or twice a week or something of that sort.

Q. On the other hand, do you have occasion to have shipped from the northwest to the San Francisco area shipments of a similar character?

A. Yes, we do; "shorts" we call them.

Q. And who are normally the consignees on those shipments?

A. Well, that might be the division itself, or it might be their customer. It depends on what is the most economical method of shipment.

Q. Your customers are principally who? Printing houses and wholesale houses?

A. Printing houses, grocery stores, whoever buys paper.

Q. Does your company have customers and distribute its profits quite generally in the area between San Francisco and Puget Sound?

A. Well, that distribution is performed from the nearest division. For instance, Sacramento will supply probably, Klamath Falls, if they have customers there. I don't know whether they do. And our Portland house would supply towns in their
1520 territory. Our Medford house will supply towns in their territory, and so forth.

Q. But from some one of your branches you do sell and deliver your product to that entire territory between San Francisco Bay and Puget Sound?

A. Yes; we cover the whole west.

Q. What transportation service do you use in shipping between your various branches and your customers in the territory between San Francisco Bay and Seattle?

A. Well, we follow the instructions of our northern houses in the matter of shipping to customers or themselves.

Q. And what service have you used in following those instructions?

A. Our Portland Division, I believe, specifies the Pierce Auto Freight and also the Oregon-California service.

Q. Do you recall using any other transportation service at any time?

A. Oh, we may have an occasion. I have used Mitchell or Consolidated; Consolidated on occasions.

Q. What have you to say as to whether or not the service that you have been receiving has been satisfactory to meet your needs?

A. Well, we have received very few complaints in the matter of nondelivery of any of our shipments to that territory.

Q. Ordinarily when you ship into northwest territory from San Francisco Bay are those more or less emergency shipments?

A. Yes. They are what we call "rush" orders.

1521 Q. And if there were any substantial difficulty in delivery of those rush orders would you be apt to receive complaints?

A. Oh, yes. We would get a wire the next morning if it didn't get there on the expected hour.

Q. But, as I understand your testimony, you have had no difficulty with the service up to the present time?

A. Nothing that I can recall. We may have had some little slip-ups from time to time, but I presume that would come with any transportation company.

Q. How long have you been using this type of service which you have been testifying about?

A. I don't know just exactly. I would say the last four or five years, I believe.

Q. Does your place of business keep open on Saturday or make shipments on Saturday?

A. No; we are closed on Saturdays.

Mr. ELLIS. Cross-examine.

Chairman TERRIL. Mr. Howry, does your plant in San Francisco draw any of its normal stock from the northwest which moves by motortruck? You said that your wrapping paper supplies came from the northwest.

The WITNESS. No; that moves by rail and water.

Chairman TERRIL. Then the only movement by truck is this occasional shipment as directed by your branch houses in the northwest either to their branch or their customer, as he
1522 may direct.

The WITNESS. That's correct; yes.

Chairman TERRIL. And is the movement south-bound likewise of the same kind?

The WITNESS. Instructions are given from this office to the shipper as to the routine.

Chairman TERRIL. I believe you said that there were probably one or two shipments a week north-bound?

The WITNESS. I would say so; yes.

Chairman TERRIL. And is there a like movement south-bound?

The WITNESS. Yes. It varies. Sometimes we may go a week or two and then we will have a flock of them.

Chairman TERRIL. Can you estimate or do you have available the average weight of such shipments?

The WITNESS. Oh, I would say 250 pounds.

Chairman TERRIL. On an average?

The WITNESS. I would say so; yes.

Chairman TERRIL. Cross-examine.

Cross-examination by Mr. BEROL:

Q. Mr. Howry, do I understand correctly that the routing of your shipments is determined by the people in the north?

A. Yes. They give us routing instructions on every order. We don't take orders without routing instructions because we don't want to be responsible for their deliveries.

1523 Q. That is, so far as you here are concerned you don't select the carrier at all?

A. On out-bound movements only.

Q. On south-bound shipments only?

A. Yes.

Q. How frequently do you receive south-bound shipments?
A. Once or twice a week I would say.
Q. Do you ship to Camas, Washington?
A. Yes.
Q. How frequently?
A. By truck.
Q. By truck or rail?
A. We don't ship by truck from Camas at all. That is the location of the large mills up there and their shipments, I believe, are made at the present time by water.
Q. By water?
A. Yes.
Q. In other words, a direct truck line between San Francisco and Camas would or would not be of any interest to you?
A. Not on less than carload shipment; no.
Q. Well, have you been informed that the applicant here proposes to offer directly on call between San Francisco and Camas in the handling of either less-truck-load or truck-load shipments?
A. No; I wasn't informed about that.
1524 Q. Now, if that was a fact and it is a fact, Mr. Howry, that the Oregon-Nevada-California Fast Freight is proposing to operate directly without any interchange between San Francisco and Camas, handling less-truck-load as well as truck-load shipments of paper, would that not be at time of any advantage to you?
A. We wouldn't be able to determine that because that paper is sold to us at a delivered price and the mill determines the method of transportation.
Q. In other words, that would be determined by the mill at Camas?
A. Yes.
Q. You are not here objecting to the proposal of the Applicant, are you?
A. No; I am not objecting to anything.
Mr. BEROL. That is all.

By Mr. SCHAFER:

Q. Mr. Howry, you say that the routing on these shipments from Portland is controlled at Portland?
A. Yes.
Q. Do you know Frank Curtis of Portland?
A. Yes.
Q. What position does he hold there?
A. He is traffic manager.
Q. He is traffic manager for your company?
A. Yes.

1525 Q. And he is the one that controls the routing from Portland to San Francisco on these shipments?

A. He is the one that controls the routing from San Francisco to Portland or to intermediate points.

Q. You don't ship from Portland to San Francisco?

A. Yes; we ship from Portland to San Francisco and we specify the routing on those shipments.

Q. Did you receive a letter from the Pierce Auto Freight urging you to appear here and protest the granting of these applications?

A. No; I received—in fact, Mr. Hershey of the Valley Express, who I understand represents the Pierce Auto Freight here, asked me to testify that the services received now were satisfactory.

Q. I see. You haven't had any communication from Frank Curtis at all urging you to appear here?

A. No.

Q. Did you say you have no occasion to ship from San Francisco to Klamath Falls?

A. Not that I recall. My impression is that that is in the Sacramento territory. I think it is in Sacramento. I am not sure whether it is in Sacramento or Medford.

Q. Oh, I see. You have an office at Medford?

A. We have a subbranch; yes.

Q. Do you carry a stock of paper there?

1526 A. A small stock; yes.

Q. It is quite probable that Klamath Falls would be served out of Medford? That is the closest point. That is the natural assumption?

A. My geography is a little hazy there. Those things are determined oftentimes——

Q. (Interposing.) In any event, you have no need at all for any service from San Francisco to Klamath Falls, Lakeview?

A. The San Francisco branch?

Q. Yes.

A. The San Francisco branch has not. But, of course, in other times other branches would have an interest in that.

Q. There are other branches in Oregon, you mean?

A. Either in Oregon or Sacramento.

Q. I see. But you don't know whether they do or not?

A. No. My belief is that it is served from Medford.

Q. Does paper in rolls suffer damage?

A. No.

Q. If they are damaged on edge, does that injure the paper?

A. Only the very large rolls; newsprint.

Q. Does any of that move from Portland to San Francisco?

A. No.

Q. You don't handle any wax paper?

A. We handle wax paper; yes.

Q. By truck between Portland and San Francisco?

1527 A. Well, we would if it was an order placed by a customer. We would ship it if it was an order placed by a customer.

Q. Wax paper is quite easily damaged, is it not, by handling?

A. The only damage that it would do to wax paper would be to subject it to too high a temperature. Otherwise it wouldn't be any more subject to damage than any other.

Q. Dropping a roll of wax paper, driving in the plug and denting the edge wouldn't affect the value of it at all?

A. Well, it would no more than any other paper, I would say, except that wax paper is a more expensive grade of paper than any other wrapping paper.

Q. You don't know whether or not a roll of wax paper so damaged would be unfit to use in a wrapping machine?

A. It probably would; yes, sir.

Q. Do you know whether it would? What I am trying to get at is whether or not you have a preference for a through service without a transfer and rehandling en route and whether you are indifferent as to how many times your freight is rehandled en route. Which do you prefer personally?

A. Well, we don't care so long as the shipment gets to us in good condition.

Q. In your experience——

A. (Interposing.) And gets there in the shortest possible time.

Q. In your experience as a traffic manager, then, you are indifferent as to how many times it is rehandled?

1528 A. A less carload shipment?

Q. Yes.

A. Well, we receive a great many shipments from the eastern side of the United States and I know that they must be handled a good many times.

Q. Less carload?

A. Less carload.

Q. You don't know whether or not they make a through car of l. c. l. freight from the east?

A. Well, most of the shipments nowadays are consolidated. They come in the carloading companies and they make up consolidated cars at various points.

Mr. SCHAFER. I have no further questions.

Chairman TERRIL. Anything further, Mr. Ellis?

Redirect examination by Mr. ELLIS:

Q. As far as the business of your company is concerned, do you have any need for any additional carriers between here and points in the northwest?

A. We seem to be adequately served as far as our small, rather limited requirements.

Mr. ELLIS. That is all.

Chairman TERRIL. That is all. Thank you, Mr. Howry.

(Witness excused.)

Mr. FARRENS. I will call Mr. White.

1529 B. A. WHITE was sworn and testified as follows:

Direct examination by Mr. FARRENS:

Q. Please state your name, address and occupation.

A. B. A. White, 400 Sansome Street, San Francisco, representative of the Pacific Southwest Railroad Association.

Q. What is the Pacific Southwest Railroad Association?

A. This is an unincorporated association of trunk-line and short-line railroads serving the Pacific Southwest territory comprised of the states of California, Nevada, Arizona, and New Mexico, organized for the purpose of protecting rail interests as they may be affected by motor carrier operations in this territory.

Q. Does your work include keeping files up to date on applications of motor carriers to the Interstate Commerce Commission?

A. It does.

Q. Do your files show the current status of such applications before the Commission?

A. Our files show the current status in so far as orders of the Commission or developments relative to applications have been received by us or are available at the local office of the Bureau of Motor Carriers. We are sometimes a few days late in obtaining information, but on the other hand we occasionally receive
1530 mation before others in this territory have received it.

Q. Do you have before you a tabulation of motor carriers between Oregon and California points?

A. I do.

Q. Did you compile this list?

A. This list was compiled under my direction from our files and checked by me for presentation at this hearing.

Q. Will you explain to the Commission what this list purports to be?

A. This list is a tabulation of motor carriers performing a physical operation between Oregon and California points, but not necessarily restricted to service in these two States. These carriers have applications before the Commission on which some action has been taken by the Commission.

Q. Does this list contain a complete record of the current status of the applications thereon listed?

A. The record contains the current status in so far as we have

been able to obtain sufficient information of the status. In some instances where we have been informed as to changes in status but have not yet received official confirmation of such changes, these changes have not been included. The information is not complete, but merely a brief outline of the orders of the applications with particular reference to the service which would be competitive to the proposed service in this hearing.

1531 Mr. FARRENS. I ask that this list that we identified be given an exhibit number.

Chairman TERRIL. It will be identified as Exhibit No. 11.

(Exhibit 11, Witness White, marked for identification.)

Mr. FARRENS. I now offer this list in evidence. May I say that in offering it I am not offering it for the purpose of proving the contents of the orders referred to. Those orders themselves are the best evidence of their contents. The exhibit is offered merely for the purpose of identifying by docket number the name and address of the applicant, the case or order pending or decided, pending before or decided by the Commission in reference to each carrier whose name is set forth on the list, and the items of commodities and operation which follow are merely brief résumés of the commodity and territorial provisions in the order to assist in identification of the order. It is offered for the convenience of the Board and the Commission with respect to those orders of the Commission.

Mr. SCHAFER. That is objected to on the same ground as I have objected to previous lists of carriers, on the ground that this is no evidence whatsoever of the adequacy of the service being performed under these rights.

Mr. BEROL. I might say that, subject to the limitations explained by counsel, I am convinced that the document has not any evidentiary value. So, for whatever weight it might have,

1532 I have no objection.

Mr. SCHAFER. I' support of my objection I will again cite Division 5 in the William F. Crossett case.

Chairman TERRIL. The exhibit will be received in evidence for what it is worth and it will be marked as No. 11 in this matter.

(Exhibit 11, Witness White, received in evidence.)

By Mr. FARRENS:

Q. Mr. White, you have before you a sheet of paper on which appears a drawing. Are you familiar with this document and, if so, will you please explain it?

A. This——

Mr. BEROL. (nterposing). Just a minute! Could we see it or is it a secret?

Mr. FARRENS. It is no secret.

A. (Continuing.) This document is a graphic drawing of motor carrier services between the points involved in this hearing, showing through services and connecting services of motor carriers at a glance. The services are indicated by the lines running between the oblongs marked with the names of major points of service, each carrier being designated by a line in which the name of the carrier is indicated by the number in the circle placed at some point along the line, with the key to the carrier listed in the lower left-hand corner.

Q. Does this instrument contain a complete showing of motor carrier services in the territory which is covered by its
1533 contents?

A. No; it does not. The list contains some of the major truck carriers between California and Oregon and a few of the connecting carriers. There is, however, but one carrier listed specializing in household goods movements. There are a number of other household goods movers in this territory. Connecting carriers in Washington and Oregon, without physical service to California, have not been included in this list or, rather, in this showing. The Consolidated Freightways, Inc., while it does not at present perform a physical service directly between California and Oregon, does perform a service into San Francisco through Idaho and Nevada. On this sheet the roundabout service is not indicated. The showing also omits carriers who do not perform a direct service between the major points shown in the oblongs.

Q. Does this instrument have any relationship to Exhibit No. 11, which has just been offered and, if so, will you explain this relationship to the Commission?

A. The through carriers actually performing a physical service between Oregon and California are listed on Exhibit 11 and are shown graphically in this exhibit. The connecting carriers in California are not shown in Exhibit No. 11, but have been selected in this exhibit as being a representation of some of the available service. One of the carriers in Exhibit No. 11 which is not
1534 shown in this graph is the last carrier shown on page 5 of Exhibit 11, Transcontinental Contract Carriers which performs a service between San Francisco and points on the Oregon coast.

Mr. FARRENS. We offer this as Exhibit No. 12.

Mr. BEROL. No objection, subject to the same comments I made respecting Exhibit No. 11.

Mr. SCHAFER. I am objecting on the same ground as previously. There is no proof whatsoever of the adequacy of service between the points here involved.

Chairman TERRIL. The objections will be noted. The same

ruling. The same reason. It will be received and marked as Exhibit No. 12.

(Exhibit 12, Witness White, received in evidence.)

Mr. FARRENS. You may cross-examine.

Chairman TERRIL. Let us take a recess.

(Whereupon a short recess was taken.)

Cross-examination by Mr. BEROL:

Q. Mr. White, would you refer to your Exhibit No. 11, please?

A. Yes.

Q. Disregarding the carriers of malt beverages and fruits and vegetables and dressed poultry; and confining ourselves to the carriers of general commodities; turning to page 2, there is the carrier of Puget Sound-Portland Lines, Inc., Seattle, Wash-
1535 ington; with the exception of Oregon-Nevada-California Fast Freight, the applicant here, that is the first general commodity carrier listed on your exhibit, isn't it?

A. No. I think on page 1 there is one.

Q. Oh, yes; Pacific Truck Express. I overlooked that. Now, are you seriously contending that Puget Sound-Portland Lines, Inc., serves points in California?

A. They have the right to serve points in California.

Q. Are they serving any points in California?

A. I could not answer that. However, the rights still exist.

Q. With respect to the Colletti Fast Freight, do they have any rights in California?

A. Their application, I believe, is still pending before the Commission.

Q. Does your Exhibit No. 11 indicate what the last order of Division No. 5 pertaining to that application was?

A. It does not.

Q. Do you know what that last order of Division No. 5 covering their application was? Do you know as to whether or not they were granted any operative rights whatsoever?

Mr. GLANZ. Just a moment. Are you referring to the last order?

Mr. BEROL. I am referring to the Division's order as to operative rights. He testified on direct examination that he keeps a complete file, that he follows the chronological order of various orders
1536 coming out of the Commission. I want to know what he knows.

Mr. GLANZ. I object to the question in so far as it concerns the applicant Colletti, because there has been an order issued only within the last two or three weeks.

Chairman TERRIL. The objection will be overruled. You may answer the question.

A. I think the last order of the Commission was a stay of the previous order.

By Mr. BEROL:

Q. And what was the previous order?

A. If I recall correctly, it was a denial of their application.

Q. A denial of their application in toto, wasn't it, Mr. White?

A. As I recall it.

Q. Mr. White, as a representative of the Pacific Southwest Railroad Association is it the position of the Pacific Southwest Railroad Association that Colletti Fast Freight has any operative rights?

A. The position of the Pacific Southwest Railroad Association with regard to these applications is merely an opinion.

Mr. BEROL. Just a moment. I will ask that the answer be stricken upon the ground that it is not responsive and I will ask that the witness answer the question.

Mr. GLANZ. Just a moment.

The WITNESS. Will you repeat the question?

(The question referred to was read by the reporter.)

Mr. GLANZ. I will object to the question upon the ground
1537 that it is immaterial as to what Pacific Southwest Railroad Association thinks with respect to the Colletti rights. It can have no probative value in this proceeding.

Mr. BEROL. Just a minute. Have you finished, counsel? I did not mean to interrupt.

Mr. GLANZ. That is all right. I am making an objection. If you want to be heard, why, speak up and then I will be heard.

Mr. FARRENS. I am going to make the further objection to that question upon the ground that it is not proper cross-examination. This exhibit was offered for the purpose of identifying proceedings either concluded or pending before the Commission and not for the purpose of indicating any partisanship for or against any particular party in any particular proceeding on the part of Pacific Southwest Railroad Association. As a matter of fact, of course, Pacific Southwest Railroad Association was a protestant in a good many of those applications, but I don't think that is relevant in this case.

Mr. BEROL. If the Examiner and the Joint Board please, here is a witness testifying on behalf of the Pacific Southwest Railroad Association. Here he comes in with two exhibits saying, in effect, "Why, there is all kinds of service here!" I want to know just exactly what the position of the Pacific Southwest Railroad
1538 Association is. I want to know whether they can say that that service is rightfully here and now. I am entitled to be heard on that.

The WITNESS. I can answer that.

Mr. GLANZ. May I be heard just for the sake of my objection to the question? The opinion of the Pacific Southwest Railroad Association, whether it be that the Colletti operation is proper or lawful or unlawful, is of no importance to this proceeding for the simple reason that it is only an opinion. Mr. White is being called upon to express an opinion, and we might just as well have the opinion of any person in this hearing room, and I should like to give an opinion, too, with respect to whether or not the Gregg Cartage case was properly applied to the facts in the Colletti case.

Now, if we are going into matters of opinion we are going very far afield.

Chairman TERRIL. Let us have the question.

Mr. BEROL. I am not asking for an opinion. I am asking for a position. I am asking for a fact.

Chairman TERRIL. The objection will be overruled. Read the question, please.

(The question referred to was read by the reporter.)

Chairman TERRIL. The witness may answer.

A. It is the position of the Pacific Southwest Railroad Association with regard to the Colletti Fast Freight Application and every other application or operator, that they have no
1539 rights in interstate commerce until those rights have been proven before the Commission and the Commission has issued its orders thereon.

By Mr. BEROL:

Q. Referring to page 3, the next general commodity carrier is John & Pete Lubetich. Are you familiar with the two most recent orders of Division 5 of the Commission regarding John & Pete Lubetich?

A. I am familiar with two recent orders. Whether they are the most recent orders or not I could not say.

Q. And will you state, please, as to what those two orders contain?

A. The application was denied and, as I understand it, on exceptions the matter is still pending.

Q. And the application was denied in toto?

A. As I recall it.

Q. Ora James Mitchell. I will ask you the same question as I did in regard to Colletti Fast Freight, as to whether the Pacific Southwest Railroad Association's position is such that Ora James Mitchell has operative rights between Portland, Oregon, and San Francisco, California?

A. The position of the Pacific Southwest Railroad Association is that no carrier has rights until they have been established before

the Commission. However, many carriers are operating on claimed rights.

Q. Turning to page 4, referring to the Los Angeles-
1540 Seattle Motor Express, Inc., I will ask you as to whether you are familiar with any recent order of the Commission granting to the Los Angeles-Seattle Motor Express any operative right to serve San Francisco or Oakland?

A. As to that particular point, I do not recall.

Q. The next general commodity carrier, Cascade, Inc. If I asked you the same question as to your position as I did in regard to Colletti Fast Freight your answer would be the same?

A. It would.

Q. That, I believe, with the exception of Frank Battaglia, listed on page 2, completes the list of general commodity carriers listed on Exhibit No. 11, does it not?

A. I have not followed that carefully, but I believe so. Consolidated Freightways.

Q. And the Consolidated Freightways. How about Frank Battaglia? Does Frank Battaglia have any operative rights?

A. He does not. He leased rights from Bothwell.

Q. Does Bothwell have any rights?

A. The Commission issued an order.

Q. It is final, is it?

A. I believe it is. However, as I understand it, one of the applicants in this matter has an interest in that right and the name has been changed to "Pacific ——" (pause.)

Q. (Interposing.) "Pacific Seaboard Motor Lines," for
1541 your information.

A. (Continuing.) "Pacific Seaboard Motor Lines."

Q. Now, Mr. White, outside of Frank Battaglia or Bothwell or Pacific Seaboard Motor Lines, or whatever the name of that particular operation may be, and Pierce Auto Freight Lines, can you point to any carrier either on Exhibit No. 11 or otherwise who holds operative rights that have been fixed by the Commission to operate as a common carrier by motor vehicle of general commodities between San Francisco Bay points and Portland, Oregon?

A. I believe the Pacific Truck Express has such rights.

Q. That is the only additional one, isn't it?

A. Your question is as to whether there are any orders which are final granting those rights?

Q. Yes.

A. The Consolidated Freightways has such rights.

Q. Between San Francisco Bay points and Portland, Oregon?

A. Yes; sir. However, those rights are very roundabout, I believe, and would require operation through Nevada and Idaho.

Q. Don't you know that their operative rights are restricted so

that even by a roundabout method they are not permitted to perform service directly between San Francisco Bay points and Portland, Oregon?

A. I was not familiar with that point. I did not check
1542 that in particular reference to this.

Q. In other words, you didn't check what operative rights the Consolidated Freightways has to ascertain whether that was a fact or not?

A. No. If you will refer to Exhibit number 12 you will see that Consolidated Freightways have not been shown as a through carrier.

Chairman TERRIL. What were the three that you named in your question as final? They included Pacific Truck Express?

Mr. BEROL. Pacific Truck Express, Pierce, and Pacific Seaboard Motor Lines, Inc., as the successor of L. E. Bothwell.

By Mr. BEROL:

Q. Now, the Pacific Truck Express is a wholly owned subsidiary of the Pacific Motor Trucking Company, is it not?

A. I didn't get that question.

Q. Is the Pacific Truck Express a wholly owned subsidiary of the Pacific Motor Trucking Company?

A. I am not entirely familiar with the financial structure of the railroads or the Pacific Truck Express.

Q. You didn't ascertain that in the course of your search of their operative rights?

A. No.

Q. Now, Mr. White, referring to Exhibit No. 12, you are familiar with the fact that this application involves only
1543 the territory between San Francisco Bay points and Portland, Oregon, are you not?

A. I don't quite understand that question.

Mr. FARRENS. I object to that question upon the ground that it presumes something contrary to the fact. They are claiming the territory beyond Portland as affected by the application.

Mr. BEROL. I will withdraw the question and reframe it.

By Mr. BEROL:

Q. You are familiar with the fact, are you not, Mr. White, that the application herein, so far as the operation of physical equipment is desired, affects only the territory between San Francisco Bay points and Portland, Oregon, as a scheduled service, and Vancouver, Washougal, and Camas, Washington, as an on-call service, are you not?

A. You mean both the applications?

Q. I am talking about the Oregon-Nevada-California Fast Freight.

A. No; I am not familiar with that.

Chairman TERRIL. Mr. Berol, for the purpose of the record your questioning in most of this at least is directed entirely to the Oregon-Nevada application, and not——

Mr. BEROL (interposing). In all of it, Mr. Chairman. Consolidated is represented by capable counsel and I won't presume to ask questions on behalf of Consolidated Freightways.

Mr. SCHAFER. That is the nicest compliment I ever had!

1544 Chairman TERRIL. For the purpose of the record your cross-examination is directed to your own application?

Mr. BEROL. Entirely so. I am only concerned with the Oregon-Nevada-California Fast Freight.

Chairman TERRIL. And, likewise, Mr. Schafer, your cross-examination is directed to your application?

Mr. SCHAFER. Correct, and so applies to both of ours.

Mr. BEROL. I don't want my answer to the question to indicate something that may not be intended here. Now, I intended by that that I am concerned only with the application of the Oregon-Nevada-California Fast Freight. But this protestant's testimony is being heard for application in both applications. Now, I certainly feel that anything I may develop on cross-examination is available to Mr. Schafer and his associates for whatever usage they may want to make of it, and whatever they may develop on cross-examination I want to feel free to use for whatever purpose I may want to use it for.

Chairman TERRIL. I think I understand, but I wanted that statement on the record both for the record and for the Examiner.

Mr. BEROL. I think that clarifies my position.

Mr. SCHAFER. Mr. Berol has expressed my views also.

The WITNESS. I am not familiar with the application as stated by you.

1545 By Mr. BEROL:

Q. Mr. White, do you know what the nature of the application is that is pending here?

A. It was my impression that the application was for a physical right to extend the service of the Oregon-Nevada-California Fast Freight on their terminal points in Oregon to Portland and serving immediate points.

Q. Plus the on-call points that are mentioned in the State of Washington. You will agree with that, won't you?

A. Yes.

Q. How am I going to be able to take a look at Exhibit No. 12, Mr. White, and determine which carrier operates a through service from San Francisco to Portland?

A. The lines representing carrier service continue through, terminating at the points at which the service terminates. In other words, in the first line——

Q. (Interposing). All right. Take the first line, which is a through line between San Francisco and Portland, being Item No. 1. Harold M. Gray. Is it your position that Harold M. Gray conducts a daily schedule, regular route operation, between San Francisco and Portland?

A. Well, your statement was not complete, I believe. In the first line the service goes from San Diego to Seattle.

Q. All right.

A. And also to Spokane.

Q. All right. Is it your position that Harold M. Gray is
1546 operating between San Diego and Seattle?

A. Harold M. Gray has the right to operate.

Q. I am asking you as to whether or not he is operating.

A. I do not know the exact physical operation. My testimony is as to the orders, not to the extent of the actual service.

Q. Now, Item No. 2, Frank attaglia. Is it your position that Frank Battaglia has an operative—strike that.

In order that the record may be clear, Frank Battaglia is intended to mean the lessee of L. E. Bothwell, is it not?

A. That is correct.

Q. Now, is it your position that L. E. Bothwell has any operative rights between San Francisco and Medford, Oregon?

A. I believe he has.

Q. Are you sure of that?

A. Without copy of the actual order before me I could not be positive. My recollection is that he has.

Q. Didn't you state that you made an investigation of these various orders in order to determine these rights before compiling your exhibits?

A. I did.

Q. Are you advising this Commission that Frank Battaglia or L. E. Bothwell has operative rights from San Diego, California, to Spokane, Washington?

A. By reference to Exhibit 11, the second page,——

Q. Interposing). Just a minute. Unless—well, go
1547 ahead. Make your explanation.

A. Which briefly outlines the services, it would seem that the service beyond Portland has been included in Exhibit No. 12 in error.

Mr. FARRENS. Do you wish to make that correction?

The WITNESS. I do not have the order before me so I could not say positively that it was an error, but it would seem to be.

By Mr. BEROL:

Q. Are you in a position to tell me as to what the operative rights of Carrier No. 2 represented on Exhibit No. 12 are?

A. The operative rights are for the transportation of general commodities with certain exceptions between Portland and Los Angeles serving Eureka and San Francisco.

Q. If that is the case, then Exhibit No. 12 is erroneous wherein it indicates that that carrier is authorized to serve San Diego, is it not?

A. If that is the case I should say that it was.

Q. It is also erroneous wherein that exhibit indicates that it is authorized to serve Fresno, is it not?

A. The Exhibit does not purport to show intermediate service. It simply shows the points between which the operator serves. If you will notice——

Q. (Interposing.) In other words, I take it, then, that under this exhibit—Mr. White, all I want to do is to understand
1548 the exhibit. Now, if you say it is not designed to show any intermediate service, then am I to take it that under Item No. 2 it would appear that the operator is operating a through service with a terminal point of San Diego on the one hand, and Spokane or Seattle, on the other? Is that what you want me to understand?

A. I think I have stated that there may be an error in regard to the operation of No. 2. You probably are more familiar with that.

Mr. FARRENS. Would counsel be willing to have the witness select another number for illustration?

Mr. BEROL. I am going to select it.

By Mr. BEROL:

Q. Then may we agree, Mr. White, that in so far as Item No. 2 is concerned the exhibit is in error?

A. I would not agree to that without a copy of the order before me. It may be in error.

Q. Respecting Item No. 3, Ora James Mitchell, is it your position that Ora James Mitchell has or claims any authority to serve Los Angeles?

A. If I recall rightly Ora James Mitchell did make such a claim.

Q. You say if you recall "rightly"?

A. Certainly.

Q. Didn't you tell your counsel that you have in your office a list of the orders of the Commission, that you made an investigation of such list?

1549 A. I did.

Q. Do you have any of your working papers with you?

A. I have not.

Q. Are you able to tell me of your own knowledge or of your own recollection as to whether or not Ora James Mitchell on his pending application has or claims any right to serve Los Angeles?

A. He claims the right to serve Los Angeles.

Q. Is Ora James Mitchell conducting any operations to or from Los Angeles?

A. He was within a very short time ago. Whether he is right at the moment or not I couldn't say.

Q. Is he at the present time?

A. I haven't seen his equipment on the street within the last two or three days.

Q. Is there anything on Exhibit No. 12 from which I can determine as to what, if any, intermediate points Mitchell serves between Los Angeles, on the one hand, and Seattle, on the other hand?

A. There is nothing on Exhibit 12 which would show that. Reference would have to be made to the order of the Commission.

Q. That is so with each of the carriers listed: There is nothing on Exhibit 12 to indicate what intermediate points they serve?

A. That is correct.

1550 Q. I take it, then, with respect to Item No. 4, the Los Angeles-Seattle Motor Express, that Exhibit No. 12 does not purport to show that they serve San Francisco?

A. No. That shows only the terminal points.

Q. As long as we are dealing only with terminal points, in order to shorten this cross-examination, am I correct in assuming that the only carriers that Exhibit 12 purports to show that serve San Francisco are Item No. 14, the Pierce Auto Freight Lines, and Item No. 33, J. E. Foster?

A. That presumption is not correct.

Q. Just a minute. I haven't finished. Item No. 34, Reymers Auto Truck Line; Item No. 35, A. H. Dudley; Item No. 36, Grant V. Smith. Outside of those carriers that I have mentioned, can I tell from Exhibit No. 12 that any other single carrier represented on Exhibit No. 12 serves San Francisco?

A. Well, there is the Oregon-California Fast Freight, No. 17.

Q. Yes; I overlooked that one. And also Item No. 15 I have overlooked, the Pacific Truck Express.

A. The Exhibit shows the terminal points between which the operation is conducted or between which, in case the application is still pending, service is claimed by the applicant. But it does not purport to show intermediate service. Such a graph would be too detailed to be easily understood.

Q. One more question. Again in the interests of shortening this cross-examination, am I correct in understanding that
1551 Exhibit No. 12 purports to show only operative rights claimed by the filing of some application and not actual operations?

A. Exhibit No. 12 purports to be the claims of applicants who have been operating and who have either had orders issued or whose orders—or whose applications are pending before the Commission.

Q. But you are not claiming that each and every one of the carriers shown on Exhibit No. 12 are conducting operations between the points shown?

A. I would not make that claim of any operator. I might add, further, that, as a matter of fact, I believe there is one operator on Exhibit No. 12 who has discontinued his operations. However, the rights are still existent.

Q. Which one is that?

A. Grant V. Smith, No. 36.

Mr. BEROL. I will move at this time, if the Examiner please, and if the Board please, that Exhibit No. 12 be stricken upon the ground that examination obviously shows that it is not correct, errors occurring into it. The exhibit, remaining as it is, would be a misleading document.

Mr. FARRENS. That motion is resisted. The objection goes to the weight of the testimony and nothing else.

Chairman TERRIL. The motion will be denied. It will stand for what it is worth in the record.

Mr. BEROL. That is all, Mr. White.

1552 Mr. SCHAFER. I have a few questions.

By Mr. SCHAFER:

Q. On your Exhibit No. 12, Mr. White, you list some 39 motor carriers. How many of them give a daily service between San Francisco and Klamath Falls in general commodities regularly scheduled?

A. Exhibit No. 12, was it, that you spoke of?

Q. Yes.

A. It does not purport to show the amount of service. It simply shows the rights which have been authorized which are claimed and have not yet been acted upon by the Commission. As to whether the service is daily, weekly, or monthly I do not know.

Q. Mr. White, I will ask you from your experience and your close observation of these various rights, do you know of any general commodity motor carrier operating between San Francisco and Klamath Falls other than Oregon-Nevada-California Fast Freight, scheduled or unscheduled, regular route or irregular

route? Just any other motor carrier authorized to handle general commodities.

A. Offhand, I would say that I do not know about it.

Q. I can perhaps eliminate a number of questions by asking you whether in regard to these various limited commodity haulers listed in here——

Chairman TERRIL. (interposing). By "here" you are referring to No. 11?

1553 Mr. SCHAFER. No. 11; yes.

By Mr. SCHAFER:

Q. In your Exhibit No. 11, can you state how often they run, how many trucks they have?

A. No, sir; I cannot make that statement about any line.

Q. You can't state, can you, that they are still in business?

A. No; I couldn't state that. They do have their rights, however.

Q. If I tell you that Puget Sound-Portland Motor Lines, Inc., was bankrupt several years ago could you inform me otherwise?

A. I could not.

Q. If I tell you that the line which succeeded to their rights, the General Motor Freight, is also bankrupt, can you contradict me?

A. No; I could not.

Chairman TERRIL. I think the witness has indicated the scope of his knowledge on the question, Mr. Schafer.

Mr. SCHAFER. All right. That eliminates a lot of questions with respect to a great many of these points listed.

By Mr. SCHAFER:

Q. You list twelve through carriers between San Francisco and Seattle. Aside from Los Angeles-Seattle, Colletti and Lubetich, can you name any general-commodity regularly scheduled carriers that operate through from San Francisco to Seattle?

A. To Seattle?

Q. Yes.

1554 A. What were those you named?

Q. Aside from Los Angeles-Seattle, Colletti and Lubetich?

A. General commodity through carriers?

Q. From San Francisco to Seattle, all the way through.

A. I believe Ora James Mitchell has that claim.

Q. Were you present at the last hearing held at Portland toward the end of May——

A. (Interposing.) I was present at a hearing at Portland on Mr. Mitchell's application. Whether it was the last one or not I am not sure.

Q. Is it not a fact that his counsel therein restricted his application so as not to apply to points north of Vancouver?

A. I believe that is correct. However, there has been no order which would so restrict the operations.

Q. After his counsel had voluntarily restricted his application and stated that they were not applying for any rights north of Vancouver you still see fit to list him as a Seattle carrier in Exhibit No. 11?

A. Until the Commission has completed its hearing on this case or on the Mitchell case and issued an order, anything might transpire. His original claim is to Seattle. I understand that Mr. Mitchell's rights are still pending before the Commission and that his hearings have not been completed. He may possibly change his position before the hearings are over.

1555 Q. On Exhibit No. 12 you list seven lines operating through between San Francisco and Spokane. Can you name any line operating through between San Francisco and Spokane authorized to handle general commodities, either scheduled or unscheduled, regular route or irregular route, either rail or motor?

A. I don't believe I could.

Q. Are you connected with the Southern Pacific Railroad or are you employed by the Association?

A. I am employed by the Association.

Q. That is, the Southwest Railroad Association?

A. Yes. However, the Southern Pacific is a member of our Association.

Q. And what other railroads serving the northwest are members of your association?

A. Serving with direct through service?

Q. Yes.

A. None from San Francisco.

Q. On less-than-carload freight to points such as Yakima, Wenatchee and Spokane, and so forth, how is it routed? Southern Pacific to Portland and then what beyond?

A. I am not familiar with that.

Mr. FARRENS. That is objected to upon the ground it is beyond the scope of the direct examination.

Mr. SCHAFER. All right, I will drop that.

By Mr. SCHAFER:

1556 Q. You are not familiar with the routings and arrival times?

A. I think we will have witnesses who can testify to that.

Q. I notice that you list Cascade, Inc., d. b. a. Cascade Fast Freight in your Exhibit No. 11 as a general commodity hauler

authorized to operate a regular route service between Los Angeles and Portland and also off-route points such as Oakland and San Francisco. This represents the rights which were granted to Cascade as a result of its Grandfather hearing?

A. I believe that their rights are before the Commission at present on formal procedure. Their claims were for service between Los Angeles and Portland and, I believe, beyond Portland, but their rights have not yet been determined.

Q. From your transportation experience would you say that a bona fide regularly scheduled common carrier of general commodities between San Francisco and Pacific Northwest points should have a 'phone listing in a community the size of San Francisco or Oakland?

The WITNESS. Will you repeat that, please? I don't believe I quite understood the question.

Chairman TERRIL. Give him the question, please.

(The question referred to was read by the reporter.)

Mr. FARRENS. I am going to object to this line of cross-examination.

Chairman TERRIL. The objection will be sustained.

1557 Mr. SCHAFER. I will ask another.

This man does not profess to know anything about the practices of regularly scheduled motor carriers or common carriers?

Mr. FARRENS. He doesn't profess to have testified to anything except that which he has explained over and over again to you and counsel. His two exhibits are compilations of rights either granted or pending and claimed before the Commission. He is not an operating man. Now, I am just warning you that if you continue this type of cross-examination, which is wholly improper and wholly unnecessary, and use up our time you are not going to finish your case this week.

Mr. SCHAFER. I don't like to be frightened into abandoning my cross-examination with threats of that type, but after the filibuster you put on at Portland I can easily realize that you are capable of putting on one here.

Chairman TERRIL. All right. Let us stop now. Proceed with your questions. The Board will rule on the objections as they come up.

By Mr. SCHAFER:

Q. I will ask you whether you knew when you prepared this that Cascade, Inc., has no telephone listing in Oakland or San Francisco.

Mr. FARRENS. The question is objected to upon the ground that it is not proper cross-examination.

Mr. SCHAFER. I am in the position of cross-examining on a highly improper exhibit, Mr. Farrens.

1558 Chairman TERRIL. We have allowed, as I have stated before, a very broad latitude on cross-examination. I think we will allow the question.

By Mr. SCHAFER:

Q. Did you know when you prepared this Exhibit that Cascade, Inc., doesn't even list a phone number in the San Francisco Bay territory?

A. Are you stating that as a fact or asking a question?

Q. I am asking you whether you knew it.

A. No; I don't know that.

Q. You don't know that?

A. No.

Mr. SCHAFER. That is all.

The WITNESS. They may have a listing under an agency.

Mr. GLANZ. May I ask one or two questions of the witness?

Mr. SCHAFER. I have one more thing I want to ask. That is, if this document entitled "Exhibit No. 12" is to be admitted in evidence I would like to request that the highly misleading statement shown in the lower right-hand corner of it, "Principal interstate truck operations between San Diego, California and Seattle-Spokane, Washington" be stricken. It proves absolutely nothing and it might mislead someone.

Chairman TERRIL. The exhibit has already been admitted into evidence in the proceedings.

Mr. HOLBROOK. The witness has already testified that

1559 it only pertains to the rights, not the operations.

Mr. FARRENS. It has been made entirely clear. You might as well move to strike the name of the witness by whom it was introduced at the top. It is nothing but a heading anyhow which has been fully explained.

Mr. SCHAFER. As Mr. Holbrook has just pointed out, the title is false by the witness' own testimony.

Mr. BEROL. May I make a wisecrack off the record?

Chairman TERRIL. Off the record.

(Remarks outside the record.)

Chairman TERRIL. I think it may be stricken from the exhibit.

Mr. FARRENS. Are you going to strike the "revised October 1940"?

Chairman TERRIL. No. "Principal interstate truck operatings between San Diego, California and Seattle-Spokane, Washington," the word "principal" will be stricken.

Mr. HOLBROOK. "Operations" is the word that we object to.

Mr. SCHAFER. There is no proof of any operations at all. He

has operators on there who have been bankrupt for three years.

Mr. FARRENS. If you will insert "claimed or granted" after the word "operations" it would satisfy the objection, I think.

1560 Chairman TERRIL. I think we are wasting an awful lot of time on something that is very, very immaterial. Strike all of the statement in the lower left-hand corner.

Mr. FARRENS. I now move to reinstate all of the statement in the right-hand corner and adding after the word "operations" "claimed or granted."

Mr. SCHAFER. Not "operations."

Mr. HOLBROOK. Why not put it right, Paul?

Mr. SCHAFER. The witness' testimony explained it perfectly.

Mr. FARRENS. I will amend that motion by saying that I move to reinstate all of the heading in the right-hand corner substituting the word "rights" instead of "operations."

Mr. HOLBROOK. That is satisfactory.

Chairman TERRIL. The Board feels that the whole thing is sufficiently explained in the record and the motion will be denied for the reinstatement.

Mr. FARRENS. May the record show an exception to that ruling?

Chairman TERRIL. You may have it.

Mr. FARRENS. I want to call the Board's attention to the fact that my motion was consented to by Mr. Holbrook, counsel for the Consolidated. And may the record show that as having been considered?

Mr. SCHAFER. May the record show the consent on the

1561 part of Consolidated?

By Mr. GLANZ:

Q. Mr. White, do you know of your own knowledge whether or not Colletti Fast Freight has pending an application on Form BMC 8 before this Commission involving service between Los Angeles, California, on the one hand, and Seattle, Washington, on the other, serving intermediate points in Oregon?

A. I understand that it has.

Q. And do you know whether or not a hearing on that application has already been been held and the matter submitted?

A. I am not exactly sure about that point. I believe a hearing has been held. Whether there is another hearing to follow or not I would not be sure.

Q. Do you know whether or not Colletti Fast Freight of your own knowledge at the present time is offering a daily service or substantially daily service between Los Angeles and Seattle, Washington, serving intermediate points?

A. I believe they are.

Q. Do you know whether or not Cascade, Inc., doing business as

Cascade Fast Freight, is at the present time conducting and operating a daily service between Los Angeles, California and Portland, Oregon?

A. I believe they are.

Mr. SCHAFER. I am going to object to buying this tran-
1562 script. Cascade was represented here and had a witness on the stand who testified of his own knowledge as to their operations. Now, we have a railroad association employee stating he "believes" this line is operating and that one, and it is improper cross-examination or direct, either, of this witness.

Mr. GLANZ. I would like to be heard, and if the Board has already decided what it is going to rule I shall here abide by the ruling.

Mr. SCHAFER. Cascade has already had a witness on the stand who testified fully as to the Cascade service and Los Angeles will have today.

Chairman TERRIL. The Board is always willing to hear. Sometimes I doubt whether——

Mr. GLANZ (interposing.) All right, I will withdraw the question and save you the pain of hearing.

By Mr. GLANZ:

Q. Mr. White, do you know whether Los Angeles-Seattle Motor Express has an application?

Mr. SCHAFER. That is objected to on the same ground as calling for secondary hearsay evidence when the Los Angeles Motor Express is here and represented by counsel and their officials and intends to put on testimony.

Chairman TERRIL. The question is, Does he know? The witness may answer.

A. Yes.

By Mr. GLANZ:

Q. And do they have such an application pending?

1563 A. Yes.

Q. Do you know whether Pete Lubetich, doing business as Pacific Refrigerator Motor Lines, has pending before the Commission an application for service between Los Angeles, California and Seattle, Washington, and serving intermediate points in Oregon?

A. Yes.

Q. Do you know whether the last two applications that I have mentioned have been heard?

A. That was Pete Lubetich and——

Q. (Interposing.) Yes.

A. What was the other one?

Q. Los Angeles-Seattle Motor Express.

A. They have been heard.

Q. Do you know whether or not Pete Lubetich at the present time is offering and rendering service between Los Angeles and Seattle, Washington?

A. He is.

Q. Do you know whether or not the services of Colletti Fast Freight involve the transportation of general commodities?

Mr. BEROL. If you know, Mr. White.

By Mr. GLANZ:

Q. Would that be reflected on Exhibit No. 11?

A. I believe it would.

Q. And the same would be true as to the other carriers that I have mentioned?

1564 A. Yes.

Mr. GLANZ. That is all. Thank you.

By Mr. GLANZ:

Q. Is Williams Bros. offering a service?

A. Isn't there another name for that service?

Q. California Northwest, I believe it is. William Bros., Inc., d. b. a. California Northwest Motor Lines, I believe it is.

A. No; I do not know about that as of recent date. I know they were.

Mr. GLANZ. That is all. Thank you.

Mr. SCHAFER. Just a moment! I don't want to ask this witness questions about the plans and proposals of Colletti. If counsel for Colletti will indicate that he will have a witness on the stand who is qualified to testify, I will refrain from asking questions about Colletti.

Mr. GLANZ. I will.

Mr. SCHAFER. You will. Then I am refraining from asking questions of this witness about Colletti.

Chairman TERRIL. Mr. Farrens, do you have any further questions of your witness?

Mr. FARRENS. No redirect.

Chairman TERRIL. You are excused, sir.

(Witness excused.)

Mr. ELLIS. Mr. Frasher, please.

HAROLD FRASHER was sworn and testified as follows:

1565 DIRECT EXAMINATION

The WITNESS. My name is Harold Frasher. My place of business is 1107 D Street, Fresno.

By Mr. Ellis:

Q. What business are you engaged in, Mr. Frasher?

A. I am manager of the Valley Express Company and Valley Motor Lines, Inc.

Q. Will you briefly describe the business of those two concerns?

A. The Valley Motor Lines, Incorporated, operate between Fresno and San Francisco, Sacramento and all intermediate points.

Q. Conducting a general motor common carrier operation?

A. Yes; it is.

Q. And the other company you mentioned is engaged in what line of business?

A. It is also engaged in the transportation business somewhat of the same nature as the Railway Express Agency; that is, the Express Company gathers the shipments and uses other common carriers to transport them over the highways.

Q. What general territory is embraced in the operations of that concern, the Valley Express?

A. The Valley Express Company have rates filed in 42 states, but generally their business is on the west coast and eleven western states.

Q. How long have you personally been engaged in the
1566 motor transportation business?

A. Since 1919.

Q. And that experience has been in what general territory?

A. In California mostly.

Q. Are you generally familiar with the operations of common carrier transportation systems by motor carrier on the Pacific Coast?

A. Yes, sir.

Q. Do you have occasion to interchange freight with other carriers?

A. We do.

Q. Could you state in a general way the approximate amount of tonnage or volume of freight which you interchange with other carriers?

A. I don't know the exact tonnage, but the volume in revenue runs approximately a million dollars a year.

Q. What are some of the principal carriers with whom you interchange traffic?

A. The Pacific Freight Lines operating between Arizona points and Los Angeles, San Diego and Fresno; the United Motor Transport Lines out of Sacramento to Reno; and Pierce Auto Freight out of San Francisco to Portland.

Q. What pick-up and delivery facilities do you maintain in the San Francisco Bay district?

A. We have 22 of our own pick-up trucks and have arrangements with 27 draymen here in San Francisco.

1567 Q. Do you perform pick-up and delivery service for any lines other than your own in the bay district?

A. Yes; we do. We handle the pick-up and delivery service of the Pierce Auto Freight.

Q. For how long a period of time have you been handling the Pierce pick-up and delivery service here?

A. Ever since he started operating into San Francisco.

Q. Will you explain briefly how that pick-up and delivery service is rendered?

A. Well, we maintain a depot at Fourth and Brannan Street with telephone facilities and dispatcher. The girl receives the calls and turns them over to the dispatcher who dispatches the pick-up trucks to make the pick-ups.

Q. Do you know whether or not Pierce Auto Freight Lines is listed in the telephone directory?

A. Yes; it is.

Q. And is that also true of Oakland?

A. Yes.

Q. You also have a pick-up system and delivery system in Oakland?

A. We do.

Q. And are the Oakland and San Francisco systems handled in a similar manner?

A. They are.

Q. Do calls for service of Pierce Auto Freight Lines come

1568 in to your terminal?

A. Yes, sir.

Q. Do you likewise maintain solicitation in Oakland and San Francisco?

A. We do.

Q. And do your solicitors solicit freight for Pierce Auto Freight Lines?

A. Yes, sir.

Q. Is any solicitation performed by anyone other than the solicitors themselves?

A. Yes. We find that a satisfied driver on a route will do a better job in solicitation as a general rule than the solicitors themselves, and we have a form which is carried by these drivers and in case they can't convince the shipping clerk to give us the business he makes out a slip as to what business is moving and turns that over to our solicitor, who then calls to see if he can get the tonnage.

Q. How is the business moving to points on Pierce Auto Freight Lines to or from points south of San Francisco handled at the present time?

A. Well, the Valley Motor Lines brings the goods into San Francisco or Oakland and it is transferred to the Pierce Auto Freight equipment at those points.

Q. And south-bound tonnage is handled in a similar manner, is it?

1569 A. Yes, sir.

Q. Could you state approximately how much tonnage from points south of San Francisco Bay moves to or from points on the Pierce Lines?

A. Well, it runs around approximately four tons a day.

Q. What have you to say concerning the quality of service that is now being performed in the manner in which you have just indicated from California points to points served by Pierce Auto Freight Lines in the Pacific Northwest?

A. I am sure it is on a parity with any other operator in that district.

Q. The service is being maintained on a daily basis at the present time?

A. Yes; it is.

Q. Have you been able to develop sufficient tonnage either in the San Francisco Bay district or including your connecting tonnage from points south to keep the Pierce units fully loaded up to the present time?

A. Not so far; no, sir.

Q. Could you state the approximate volume of tonnage which you have thus far been able to develop for that movement?

A. It averages around ten tons a day.

Q. And what is the capacity of a single unit of equipment such as is now in use on the route?

A. Approximately 14 tons.

1570 Q. Have you or your company and the Pierce Auto Freight Lines had any negotiations for the purpose of developing interchange of equipment between your respective lines?

A. Yes. The present equipment being operated is now interchangeable with the equipment on our own lines or with the Pacific Freight Lines, and it is our intention if sufficient tonnage could ever be developed out of Los Angeles or points intermediate to Sacramento that the equipment will be operated directly through from Portland to Los Angeles via Sacramento.

Q. Would it be possible also to route that equipment all the way through from Los Angeles to Puget Sound if traffic justified?

A. It would.

Q. Have you been able up to the present time to develop sufficient traffic to justify such an operation?

A. No; we haven't.

Q. Do you have hopes that you may have to do so in the future?

A. Yes; we do unless there become so many carriers in the field that the tonnage is so badly divided that it wouldn't be possible to get loads for anyone.

Q. On Los Angeles traffic, if such a plan could be worked out, Los Angeles traffic destined to points north of San Francisco Bay, particularly in Oregon and Washington, where would the interchange be made?

A. On full loads the trucks will be routed through Sacra-
1571 mento and there would be no interchange. We would merely run the equipment through the entire piece of equipment.

Q. Will you describe, generally, the type of equipment which you are using in your service and which you would propose to use in this interchange service?

A. Well, the equipment is a two-axle tractor with diesel supercharged motor. It develops 175 horsepower, this tractor being equipped with what we term a "jeep" or small semitrailer upon which a 35-foot semitrailer is towed.

Q. I hand you a picture of a unit of motor vehicle equipment and ask if that is the type of equipment which you have just referred to.

A. Yes; sir.

Mr. ELLIS. I would like to have this picture marked as the next exhibit number.

Chairman TERRILL. It will be marked as No. 13.

(Exhibit 13, Witness Frasher, marked for identification.)

By Mr. ELLIS:

Q. Is the picture marked Exhibit No. 13 a picture of one of the units of your own equipment?

A. Yes; it is.

Q. How many such units do you have in your own service at the present time?

A. We have twelve such units using what we term a "jeep," and without the "jeep" we have some 50 semis of that type.

Q. Do you know how many of such units Pierce Auto
1572 Freight Lines has in service at the present time?

A. Three.

Q. Are they identical in style and type to the one shown on this picture?

A. Yes; except the semis operated in Oregon are not quite so high as this one here. I believe this one here is 13½ feet, and the equipment in Oregon has to be lower than that.

Q. Do you know what the height of the present Oregon equipment is that Mr. Pierce is operating?

A. Twelve feet.

Mr. BEBOL. Did you say twelve feet?

The WITNESS. Yes.

Mr. BEBOL. Didn't I understand the Oregon limit to be 11 feet 6 inches?

The WITNESS. The Oregon limit is 11 feet unless permission is obtained for higher equipment, and it makes allowance up to 12 feet.

By Mr. ELLIS:

Q. Will you describe the capacity and size of the equipment shown on this exhibit?

A. The semitrailer there is 35 feet long and when this equipment is hooked up it will be 45 feet over-all. The capacity of this equipment in California is approximately 20 tons. The capacity in Oregon would be 14½ tons.

Q. What are the peculiar characteristics of this equipment as compared with other equipment commonly in use?

1573 A. Well, the equipment of this type will accommodate shipments up to a length of 35 feet, and we find it much handier to handle freight because it will accommodate practically any type of shipment that may be offered.

Q. And as to total loading space, could you state the approximate cubic capacity?

A. 2000 square feet—or cubic feet, rather.

Q. What features make it peculiarly suitable for interchange?

A. The fact that this particular piece of equipment can be operated in Oregon, Washington, California, or Arizona, or Nevada.

Chairman TERRIL. May I interrupt just once?

Did I understand you to say that all of these pieces of equipment were 13 feet of this type that you are showing here on this exhibit?

The WITNESS. I said this particular piece was 13 feet. However, the ones operating in Oregon are 12 feet, and——

Chairman TERRIL (interposing). On the twelve similar, some of them at least comply with the Oregon height restrictions?

The WITNESS. That's right.

Chairman TERRIL. I just wanted to be sure on it.

By Mr. ELLIS:

Q. Does the use of this type of equipment permit the interchange of the entire loaded unit without transfer of freight?

1574 A. Yes. These are what you term Freuhauf Automatic Semis, and by pulling a lever the tractor and "jeep" can pull out from underneath the vehicle, which automatically

sets the legs down such as you see here. Another tractor can be substituted at any time and any place.

Q. How long have you been operating this type of equipment?

A. Since 1932.

Q. What have you found as to its ease and safety of operation?

A. Well, they are perfect. We have never had one of these vehicles ever come unfastened or any difficulty of any kind.

Q. How do your plans for the interchange of this equipment and the furnishing of through service between California and Arizona points, on the one hand, and points in the northwest, on the other hand, become affected by the proposals involved in these applications?

A. Well, if these applications are granted, naturally the tonnage will be greater divided than it is now, and so far we haven't even been able to develop enough tonnage out of points below San Francisco to warrant through operation of equipment at the present time. Naturally, if the tonnage is divided, that possibility will become less and less.

Q. There has been some testimony in this record concerning the use of mechanically refrigerated equipment. I would like to ask whether or not you use mechanically refrigerated equipment in connection with your service and to what extent.

Mr. BEROL. I imagine that is confined to a joint service
1575 with the Pierce Auto Freight Lines and not to the service of the Valley Motor Lines.

Mr. ELLIS. My question was general and related to this witness' experience with the use of mechanically refrigerated equipment.

Mr. BEROL. If the purpose of the question is for the purpose of developing the advantages or disadvantages of the use of mechanically refrigerated equipment, then I will have no objection. If on the other hand, the purpose is to develop this witness' experience and the number of vehicles that he may have that are mechanically refrigerated, I will object unless it is connected up to indicate that that equipment is available to be used on the Pierce Lines.

Mr. ELLIS. No. I am quite sure that the purpose is in line with your first premise.

Mr. BEROL. Then I have no objection.

A. Well, we operate 350 pieces of equipment and we also have one mechanically refrigerated piece of equipment amongst them, and that came to us through merger with another line. We do not particularly care for mechanically refrigerated equipment or for mechanical refrigeration due to the fact that equipment of that type weighs from two to three tons greater than one without refrigeration in it, and unless there is a steady movement of refrig-

erated freight whenever you don't have the load you merely
1576 carry around two to three tons daily without getting any revenue out of it. For that reason we have resorted to the use of dry ice, which we have found very satisfactory and which can be used to refrigerate an entire unit or a small shipment, whichever we want to do. And at the time we finish with the load, then we have no extra weight to pack around until the next load is offered.

By Mr. ELLIS:

Q. By the use of the dry ice method are you able to increase or decrease the temperature in accordance with the necessities of each particular shipment?

A. Yes. The amount of dry ice, of course, governs the temperature you would have within the equipment.

Q. What have you found as to whether or not that type of refrigeration meets the needs and desires of the shipping public within which you have business?

A. We have had no complaint. I might cite one instance. We handle two tons of butter every day out of Tulare to San Francisco and we merely stack this butter up and put a wooden grille on top of the butter and then a certain amount of dry ice and cover that with a canvas, and we run temperatures as high as 115 in the valley and we have had no trouble whatever with it.

Q. And how long have you been handling your refrigerated shipments in the manner in which you have indicated?

A. The last four or five years.

Q. In what type of traffic, if any, is the mechanically
1577 refrigerated equipment particularly useful?

A. From our experience it is where you have a steady movement of truckload traffic that needs refrigeration.

Q. Do you mean by that traffic moving in full truckload quantities from one origin to one destination?

A. Yes; sir.

Q. And does the question of whether there is traffic of that character in full truckloads in both directions enter into the picture in the use of mechanically refrigerated equipment?

A. Yes. It would be much more desirable if you had it in both directions. But, of course, the rate that you would get for hauling would depend on whether it would support your operation in one direction.

Q. Do you know whether Pierce Auto Freight Lines is at the present time operating any mechanically refrigerated equipment out of your terminal between here and Portland?

A. Yes.

Q. Do you know how much of that equipment it has in use?

A. I believe there is one trailer that travels along with the truck that has mechanical refrigeration on it.

Q. Have you examined the testimony of the Witness Leland James relating to the interchange of traffic at Medford in which he developed the 14 points which he considered objectionable in the handling of interchange traffic?

1578 A. Yes, sir.

Chairman TERRIL. Off the record.

(Remarks outside the record.)

Chairman TERRIL. On the record.

We will recess until 2:00 o'clock.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2:00 o'clock p. m.)

1579 AFTERNOON SESSION 2:05 P. M.

Chairman TERRIL. Let us be in order, gentlemen.

HAROLD FRASHER resumed the stand and further testified as follows:

Direct examination (resumed) (by Mr. ELLIS):

Q. Taking up the famous fourteen points, Mr. Frasher, the first one noted is the subject of billing, and the second one rating. Can you discuss those two points at this time?

A. Well, let me say first that the whole fourteen points—the disadvantages, I believe, could be answered by the situation. It seems that it is a lack of desire on the part of the connecting carriers to cooperate, is what brings all these things about. There really is no necessity for rebilling on through shipments. There is no reason why the originating carrier or the ending carrier can't bill the shipments, and there is no reason in the world why the carrier who handles a shipment must rebill shipments. The rail carriers have thousands of through shipments and the ending carrier bills it and that bill suffices for everybody.

Q. What practice do you follow?

A. In our case the carriers using the Valley Express Service, the Valley Express bills are used by all carriers participating, and in the case of where we have joint rates we accept the other carrier's bill the same as if it was our own. In the

1580 case of rating, after all, the tariffs of a carrier are the best evidence of his rates and any person who is able to read a tariff properly could certainly properly read a bill.

Q. Do you encounter any serious difficulty in rating shipments merely because they move over other lines than your own?

A. Not at all. Where we have the party's tariff there is no

reason for having any difficulty. The tariffs are made up all on the same basis, or practically so.

The point is made here also of the fact that some of the points served are not named in the tariffs. Now, that might be so when a tariff was first made. However, as those points are brought up there is nothing to prevent the carrier from listing the points in his tariff, which should be done. And, furthermore, they give away maps in practically every service station in the United States. It is no trouble to ascertain where those points are, and if they are on any of the routes so described in the tariff.

As to the disadvantage of tracing stray shipments, we have found no difficulty where one or more carriers handle the shipment. No matter how the shipment is handled your off-line points have to be transferred through some main depot and it would be just the same whether it was carried entirely over our own line or by one or more carriers. You would have to trace through the first transfer depot and also trace the originating station. I see
1581 no reason why there would be any more difficulty whether one or more carriers were handling it or whether one was handling it.

In regard to the fourth one, the c. o. d.'s, I think that is plainly a matter of desire to take care of them. There is no reason on earth why the delivering carrier couldn't pay the c. o. d. direct to the shipper. Under our own system that is done. We happen to use drafts which anybody can write, and the draft on our home office—the supporting papers are sent in and as the c. o. d.'s are presented for payment they are paid if the proper papers are on hand. However, there is no reason why any connecting carrier couldn't pay the c. o. d.'s direct if it was so desired. If that was the only trouble that the shippers weren't getting the c. o. d.'s fast enough, why, there is no reason why the delivering carrier couldn't pay that.

The situation as to claims again goes to the desire to cooperate. Regardless of the number of the carriers, wherever the claim is presented, if it is a just and reasonable claim, there is no reason why that particular carrier couldn't pay the claim and settle amongst the other carriers afterwards. In our set-up again, we do that very often. We pay the claim so the shipper receives his just treatment and then settle it with the other carriers afterwards.

The sixth disadvantage goes back again to tariff publication and proper routing guides. If the carriers involved here
1582 haven't the proper routing guides or proper tariffs, that certainly doesn't go to prove public convenience and necessity. It is a lack of proper set-up to take care of that situation.

In regards to the filing in reduction of rates: After all, a rate will either produce costs, or it won't, and if the carriers have a

proper tariff bureau set-up there is no reason why rates couldn't be filed jointly at the poper time and at the proper reduction as well as a carrier could do it themselves. The fact of the matter is, I believe, that practically all the carriers now do belong to a joint tariff arrangement and that any rate reductions, whether it is on their own line or joint lines, has to go before a bureau and be voted upon before the reduction can be made.

I am sure that that exists with most of the carriers up in this section between here and Portland.

Q. Number 9 deals with lack of cooperation between employees of the respective companies. What have you to say about that?

A. I feel there, again, that that goes to the management of the company rather than anything else. After all, the employees generally reflect the ideas of the management and, naturally, if the management are telling their employees that the connecting carrier is a bad man and not a good fellow to deal with the employees are going to reflect the same thing. And if there is any de-
1583 sire for the two companies to get along together, there shouldn't be any conflict amongst the employees either.

In regard to the ninth, as I testified this morning, if there was a desire to operate through equipment we know from experience that can be done. That can be done practically, and if these companies are not operating equipment that is satisfactory it is only because they haven't chosen to put on that which will do the job.

Q. Do you interchange equipment with other carriers?

A. We do; yes.

Q. Does that interchange include power equipment as well as trailers?

A. Yes; both power equipment and the trailers.

Q. Have you found any serious difficulty in interchanging power equipment even in your operation?

A. Not at all.

Q. Have you had any difficulty in connection with repair of that equipment belonging to another line or having the other line repair your equipment?

A. No; we haven't. As a general rule, outside of one or two makes of trucks, all the working parts are standard working parts anywhere, and the ordinary parts house can furnish practically anything you need in the way of parts regardless of the brand that might be on the front of the truck.

In the case of trailers, we experienced very little break-
1584 down of trailers other than repairing of brake shoes and the likes of that, and those are standard sizes and widths and can be obtained at practically any brake shoe house.

Q. That covers, I believe, item No. 10.

Now, pass to Item No. 11, securing information as to freight in transit. What have you to say about that?

A. Well, I am doubtful if a station as far away as Spokane is notified by air mail every time a shipment is made there. However, in our own experience we find that freight travels faster than mail, the regular mail, and that the shipper generally gets his shipment before he finds out that it has been shipped from any given point, and the situation of that kind would exist very seldom where one shipper was tracing a shipment. It probably would be a shipment that was lost, but ordinarily the shipment would be there long before he found out that it had even been shipped.

In regards to the twelfth, the misrouting of shipments, that would happen on a person's own line as well as others. However, as I stated before, if the proper routing guides were furnished, which they can be furnished, there is no reason for an employee misrouting a shipment other than if he made a mistake in reading the address or something of that sort. We know that the entire system of railroads over the United States are handling shipments, thousands of them, every day, and they seem to get to destination all right.

1585 Q. Number 13 deals with the inability to have sufficient equipment available at junction points resulting in delay to freight shipments.

A. There is some argument in favor of that situation. However, we have found that by allowing the motive equipment to go with the trailers that that difficulty is entirely eliminated. So long as the power unit goes with the load there is no reason ever to delay shipments, as is mentioned here. There are three cases where we interchange equipment of that type. We have an arrangement to charge back on a mileage basis, and we find it works very satisfactory.

Q. If equipment such as the "jeep" equipment described in your earlier testimony were used, I assume that would not require the interchange of power equipment?

A. I would not require it. However, there should be an arrangement between the two companies in case of lack of motive power that the motive power could go with the equipment to destination.

Q. Item No. 14, I believe, is to the effect that the rehandling of freight causes shipments to go astray and also damage by rehandling. What have you to say as to that subject?

A. Well, naturally, every time you rehandle freight it causes that much more damage and would cause shipments to go astray. But with the proper interchange of equipment between carriers there is no more reason why that should occur where two

1586 or more carriers are handling the shipments than if a single

carrier handled it. After all, as I mentioned before, you can't run equipment direct to every point that a carrier serves. Naturally it has to go to the most advantageous depots to break bulk there and be delivered out, and whether the carrier handled it all himself, or whether it was handled through other carriers I don't believe that there would be any more handling of that freight, if there was enough volume so you could operate through units.

Q. There has been some suggestion in the testimony to the effect that the problems in interchanging freight at Medford have been substantially increased because of the heavy volume of freight to be handled through that junction. What have you to say as to whether that element of volume is an advantage or disadvantage in the expeditious and proper working out of interchange arrangements?

A. Well, I can only cite our own experience in our interchange between San Francisco and Los Angeles. So long as we physically transferred the freight we had considerable difficulty, and as the volume of freight grew and we were able to send through units all of our difficulties disappeared, because it was the same almost as if one company was handling it. And even after we started that, as the volume grew to some of the intermediate points, we have been able to route through equipment through to them,
1587 so that we now have eliminated practically all transfer of freight in Fresno, which is of great advantage where there was a disadvantage.

Chairman TERRIL. Mr. Frasher, how extensive has been your interchange of power equipment? Do you do it frequently or just in isolated cases?

The WITNESS. At the present time we are interchanging twelve pieces of equipment every night, power units and semis.

Chairman TERRIL. That is with connecting carriers?

The WITNESS. Yes, sir.

Chairman TERRIL. Do your own employees go with this power equipment or is it turned over entirely to the supervision of the connecting carrier?

The WITNESS. No. The power unit is turned over to the connecting carrier.

Chairman TERRIL. And he furnishes the employees as well?

The WITNESS. Yes; he does. The way it is handled in Fresno, we have a joint dispatcher there. One man takes care of all of the dispatching and, as the trucks come in from the south, they call in from a point below Fresno and when the truck arrives there the other carrier puts his driver on and the truck and trailer go through to destination.

Chairman TERRIL. Have you experienced any lack of proper

care over this equipment when the truck and trailer are in the hands of the other carrier rather than yours? Is there any disadvantage in that respect?

1588 The WITNESS. No; we have not. The drivers are always entirely unionized, and if you can get them to do any work you are pretty good.

Chairman TERRIL. I didn't have that in mind. Do they exercise the same degree of care over the vehicles as your own employees do? Have you had any difficulty from that standpoint?

The WITNESS. No, no; we have not. That might be brought about by the fact that these drivers are paired up for each piece of equipment, one from the other company and one from our company, and if they weren't to take care of the equipment, whatever truck he is driving, why, naturally, he doesn't have a job. It is up to him to see that that truck is kept on the road. So we have experienced no difficulty in that respect.

Chairman TERRIL. Do you sometimes drive power equipment belonging to your connecting carrier? Is the interchange mutual, I mean?

The WITNESS. Yes. In other words, they have an equal amount of power units. If they give us one we turn them one, so that it balances off at all times. Now, the difference of mileage at the end of the month is balanced off and charged back against the other carrier at a given figure per mile, and the other carrier has a right to furnish us additional equipment and he can make

1589 it up with mileage on the equipment rather than money.

By Mr. ELLIS:

Q. Do you find any difficulty in obtaining drivers who are competent to operate either your equipment or the equipment of the connecting carrier?

A. We do not.

Mr. ELLIS. Cross-examination.

Cross-examination by Mr. BEROL:

Q. Mr. Frasher, one point: With whom do you interchange the greatest volume of traffic? Is that with the Pacific Freight Lines at Fresno?

A. Yes.

Q. What would you say would be the greatest volume of tonnage per day?

A. Well, it runs 150 tons a day.

Q. Every day?

A. Practically every day.

Q. Both ways?

A. Yes; sir.

Q. Or one way?

A. That is, 75 tons one way and 75 the other.

Q. The northernmost end of your operation as to that interchange is San Francisco, is it not?

A. Well, we interchange equipment at Sacramento also.

Q. I am talking about your interchange with the Pacific Freight Lines.

1590 A. I don't believe I understand the question.

Q. Well, I will reframe it. Is San Francisco the principal terminal point in connection with traffic that is interchanged between you and the Pacific Freight Lines on the north and is Los Angeles the terminal on the south?

A. Yes. The greatest amount of the traffic is destined for San Francisco, Oakland, or Los Angeles.

Q. What percentage of that 75 tons would you say is represented by traffic having its point of origin or point of destination at San Francisco, Oakland, or Los Angeles?

A. About 85 per cent.

Q. So that would leave only 15 per cent of the traffic that would be subject to pick-up or delivery at points either intermediate to San Francisco and Los Angeles or points beyond?

A. Well, I am a little wrong there. I am thinking about the points beyond. It is 15 per cent.

Q. 15 per cent?

A. There is about 20 tons of that goes to points intermediate. Bakersfield and Porterville on the south and Modesto and Stockton on the north.

Q. Now, isn't this true: That the greater the volume between any two points the easier it is for the effective working of interchange arrangements?

A. Yes; that is true. As soon as you get beyond 15 tons, well, then, of course, you can operate through units, which is

1591 much better than transferring the freight.

Q. Mr. Frasher, there has been some testimony in this case to the following effect: That the weight limits in Oregon are different than the weight limits in California; that by reason of the difference in the weight limits it is the opinion of the Consolidated Freightways that one type of equipment should be operated as being the most efficient and economical, and it is the opinion of the Oregon-Nevada-California Fast Freight that another type of equipment would be more economical and more efficient. Now, assuming that you had a similar situation to contend with between the Los Angeles area or the northern California area, on the one hand, and the southern California area, on the other hand; assuming, first, that it is your opinion that one type of equipment is more efficient and economical and that it was the opinion of the Pacific Freight Lines that another type of equipment was more

efficient and economical, and that neither your company could convince the Pacific Freight Lines nor could the Pacific Freight Lines convince your company, what would you then do with respect to the interchange of equipment?

A. Well, in that case if no settlement could be made each carrier could pick out the type of equipment he wanted and lease it to the other carrier for that particular run, and then you would have half of each operating over those lines. You might be able to settle it on that basis.

1592 Q. Now, suppose that by attempting to do that the type of equipment that was being operated on the southern end of the through run was the type of equipment that could not be operated under the laws of the northern end. Now then would you adjust that?

A. Well, this is merely argumentative, but if the type of equipment used in the southern end couldn't be used in the northern end then it would seem that would be the improper type of equipment used in transporting the merchandise.

Q. Now then, as a problem of management, in other words, I was interested in your statement that it may represent a lack of cooperation between carriers, and I am willing to concede that there may be some point as to some phases of this situation. But where you have two managements, both concededly competent, both concededly experienced operators, and the Consolidated Freightways insist upon one type of equipment as being the more efficient and economical, and the Oregon-Nevada-California Fast Freight insisting on another type of equipment as being more efficient and economical, and both companies being entitled to manage their own properties, does that not present a problem in connection with interchange and is not the problem of greater difficulty than you experience on the interchange with the Pacific Freight Lines?

A. Yes; it does. It would seem, though, that the thing could still be settled by arbitration or, for that matter, if I

1593 understand the law it is possible that the Interstate Commerce Commission could order proper equipment to be used between those two carriers, if the case was brought to them. I might be wrong. I am giving my impression, at least.

Q. I don't want to argue with the witness, but I take a different view: That the Interstate Commerce Commission cannot manage the properties of any carriers. I think you stated, Mr. Frasher, that up to the present time you, in conjunction with the Pacific Freight Lines, had not been able to develop more than ten tons of traffic out of the Bay area for Oregon points. Is that substantially correct?

A. That's right.

Q. How long have you and the Pierce Freight Lines been soliciting such traffic?

A. Well, we have been soliciting for a number of years. However, Pierce traffic has not been actively solicited by us until they put on their daily service, I believe a year ago or some such time.

Q. Let me ask you, are you here opposing the application of the California-Oregon-Nevada Fast Freight?

A. Yes, insofar as it affects the volume of tonnage available to our lines and the Pierce Lines, I am.

Q. Now, you understand that the Oregon-Nevada-California Fast Freight is merely proposing here to extend its line beyond Medford to Portland, Oregon, and certain designated points
1594 in the State of Washington, are you not?

A. Yes.

Q. As to the traffic that is being originated in California points, and particularly San Francisco Bay points, the extension of that line north will not increase the competition which you and the Pierce Freight Lines have at the present time, will it?

A. No; I don't believe it would, of itself.

Q. Now then, if it wouldn't increase that competition; if that competition is present at the present time, then I am not able to follow your reason as to why you are opposed to the Oregon-Nevada-California Fast Freight carrying its own traffic which now originates in San Francisco Bay points on its own equipment through to Portland instead of interchanging at Medford.

A. Well, my opposition is that there are two carriers applying here for practically the same thing.

Q. I am now asking you only with respect to the Oregon-Nevada-California application. I am not interested in the other one as far as my examination now is concerned.

A. There would be no reason to oppose if the other carrier who is now connected in with this were eliminated and only one carrier handled the shipments. The situation would be the same as it is now.

Q. In other words, your primary concern is not the Oregon-Nevada-California Fast Freight extending into Portland,
1595 it is Consolidated extending into San Francisco; isn't that right?

A. I would say it is the two carriers wanting to participate in the business or participate in the business that now is available.

Q. With respect to the traffic that you and the Pierce Freight Lines are at the present time soliciting for Oregon points, if you increase, as you hope to do, the volume of your traffic north-bound that will be largely an increase that would be due to traffic diverted from the Oregon-Nevada-California Fast Freight or another carrier, would it not?

A. I am of the opinion that that would be true. I did not, however, state that we thought that we would develop much more business out of San Francisco.

Q. You do not think you will?

A. We have been trying for a year now and it doesn't seem to come for some reason or other.

Q. Can you give me your views for this? I am asking for your opinion because you have been qualified as an expert. The testimony here says that the Oregon-Nevada-California Fast Freight is originating approximately 60 tons of traffic a day in the Bay area for interchange at Medford for points beyond.

Mr. ELLIS. I think that is substantially contrary to your own exhibits, which show approximately 42 tons.

By Mr. BEROL:

Q. Well, without going back to the exhibits or without
1596 attempting to take out of those exhibits the exact facts now, I think the exhibit that we put in pertained to 1939. The same shows that there has been a very substantial increase in 1940. The exhibits of Consolidated, if I recall correctly, do deal with a portion of 1940 that show approximately 110,000 pounds a day or approximately 55 tons. Isn't that correct?

Mr. SCHAFER. I believe that is correct.

By Mr. BEROL:

Q. Now then, Mr. Frasher, assuming that the tonnage is anywhere from 42 to 60 tons a day that was originated by the Oregon-Nevada-California Fast Freight, are you able to explain as to why that company is able to handle anywhere between 42 and 60 tons a day whereas Pierce Auto Freight Lines is only able to obtain ten tons a day?

A. Well, yes. Strange as it may seem, shippers as a general rule are fairly loyal, and where a carrier is in the field and has given good service to a shipper he generally will not change unless he can resort to some rate-cutting or something else in order to attract him.

Q. Now, bearing in mind the 14 points raised not by us but by Mr. James, pertaining to which you offered your comments; and bearing in mind that Mr. James' testimony to that effect was that by reason of those 14 points or 14 reasons there was some inefficiency or incompetency in the joint service, would you or would you
not say that if the testimony of Mr. James in connection
1597 with the present application in those 14 points is correct, that by reason thereof, considering all factors of this joint operation as compared with a single line operation of the Pierce Freight Lines, which would you expect would offer a more efficient and a more competent service? The joint line arrangement of the

Oregon-Nevada-California Fast Freight with Consolidated, or the single line service of Pierce?

A. Well, properly coordinated—if properly coordinated, their services should be just the same.

Q. Supposing we are to believe the testimony of Mr. James, and while you did not comment on the testimony of Mr. Gritsch he, too, testified to some extent on the difficulties of having them properly coordinated; and, as I say, suppose you were to believe the testimony of those two witnesses which indicates that the service and the operation is not properly coordinated, would you then say that you would expect a better and a more competent and a more efficient service to be performed by Pierce or by this combination?

A. Well, I could only go to the facts, as they now exist, and the facts as they now exist are that the combination lines are handling the preponderance of the business, and that while the service of Pierce—we handle this end of it, it is as good or better than the coordinated service, yet we have only found ten tons of freight, a day to move out of this district, indicating that the situa-
1598 tion is well taken care of and there is plenty of service at the present time to take care of the shippers' needs.

Q. Now, the service by Pierce insofar as it is a daily service is a matter of only some three months duration, isn't it, Mr. Frasher?

A. Well, I am not certain as to the time, but it is recent.

Q. It is comparatively recent?

A. Yes.

Q. Again taking into consideration these difficulties of coordination testified to by these two companies; taking into consideration that they are competing with Pierce, a single line operation; would you not, as an experienced operator expect that in a period of time Pierce should be able to substantially divert as a single line traffic from this joint line operating as they do?

A. Well, I wouldn't be able to say that. A I stated before, shippers are generally loyal, and where a carrier gives reasonable service they don't like to change. And from our experience in soliciting here, I think if Mr. Pierce takes considerable of that tonnage away he will have to do something different than has been done so far.

Chairman TERRILL. Mr. Berol, I may not have caught it properly, but the Board is still interested in having an answer from this witness to your previous question, which I don't believe
1599 was answered or at least was not responsive to the question.

Mr. BEROL. It may not be responsive.

Will you read the question and the answer, please?

(The question and answer referred to were read by the reporter.)

By Mr. Berol:

Q. Bearing in mind the Chairman's question, Mr. Frasher, as to the question and answer which the reporter just read, are you now in the position to tell me respecting as to what the facts are today which you would expect, as an experienced operator, to be a better service under those circumstances, the single line service or the joint line service?

Mr. Ivers. Just a minute! If the Board please, I haven't made an objection to this line of questioning although the entire line of questioning is objectionable. The answer which the witness gave to that question was a proper answer because his answer went to the question of public convenience and necessity. The question, on the other hand, went to whether or not an existing service as against another existing service because of the lack of coordination or mismanagement would attract traffic from one service to another service. Now, that hasn't anything to do with the issue before this Board, the issue of public convenience and necessity, although I think that the witness' answer was proper and was answered as a proper question on that line would have been answered.

1600 Chairman Terril. The Board doesn't care to argue the question either. But I was interested in his answer from the standpoint of the fact that the witness was qualified more or less as an expert, and we were interested in his reactions to the situation. That is the reason I asked for a more or less direct answer to the question.

Mr. Ivers. I have objected to the last question and I ask for a ruling on it.

Chairman Terril. The objection will be overruled.

By Mr. Berol:

Q. Do you recall the question, Mr. Frasher?

A. Yes; I do. I would like to qualify the answer. I think or I feel in the case of the Oregon-Nevada-California Fast Freight and the Consolidated that they hold a very unique position in this particular operation. In the first place, the Oregon-Nevada-California Fast Freight have their purchasing department here in San Francisco and they are well established, they are well known. On the other end of the line, you have the Consolidated with their shops and purchases and are well known. And I am of the opinion that in this particular instance that that combination has a better chance to get business between these two carriers than the single operation operated by Mr. Pierce.

Q. I don't think you have still quite answered my question. You have indicated that they may have the better chance of getting business by reason of the facts that you have indicated, but you

1601 didn't tell me which under the circumstances and the facts of this case you, as an experienced operator, would expect would give a more efficient and competent service to the public in handling the traffic that was offered to them.

A. I am of the opinion that the combination is better set up to give the service than Mr. Pierce is himself if they can iron out their difficulties of interchange. At least, there is no difference between the two operations.

Q. Now, that is assuming that they iron out the differences that exist between them. Assuming that they do not and cannot iron out the differences that exist between them by reason of differences in management, who would you then say would be in the position to accord the better service?

A. Well, if the two carriers deliberately would not get along, then I would say that the through operation would be the best to handle the shipments.

Q. Now, won't you agree with me as to this, Mr. Frasher: That the reason for you and the Pierce Freight Lines, your connection, objecting to the applicatio nof the Oregon-Nevada-California Fast Freight is because as a through service between San Francisco and Portland the Oregon-Nevada-California Fast Freight will offer keener, faster, better service than they do now, thereby offering keener competition to the Pierce Freight Lines?

A. No; that is not my basis of objection. It is the—the
1602 basis of my objection is that the public are well served already. There is no need for further competition in that district. There is plenty of service now being offered to the public and we don't care for any more.

Q. Can you tell me who, other than Pierce Freight Lines offers a through truck service between San Francisco and Portland?

A. Well, the Seattle—I don't happen to have the names here right now, but there is the Seattle Auto Freight.

Q. The Los Angeles-Seattle Express?

A. Yes.

Q. Have you been informed that under a recent decision of Division 5 of the Commission, which has been stayed, I believe, until December of 1940, that the Commission found they had no operative rights into San Francisco?

A. No; I haven't been informed. I know they are still operating and I presume they will do so until the thing is finally settled.

Q. Bearing that in mind, other than the Los Angeles-Seattle Express, can you name me a single operator operating a through service between San Francisco Bay points and Portland?

A. Why, there is Pacific——

Q. (Interposing.) Truck Express?

A. Yes; they operate.

Mr. BEROL. Is Mr. Farrens here? (No response.)

I don't want to be unfair, but I think this is consistent
1603 with the record. That is why I asked if he was here.

By Mr. BEROL:

Q. Assuming that the Pacific Truck Express has definitely gone on record as stating that they do not propose to continue a through truck service between San Francisco and East Bay points, on the one hand, and Portland, Oregon, on the other, and, can you name me any other truck carrier operating a through truck service between San Francisco and Portland?

A. Well, I believe Colletti does. I don't know the status of his certificate or anything.

Q. You don't know that?

A. The trucks are still operating.

Q. Can you think of any other?

A. Well, aside from the applicants here.

Q. All right. Now, assuming that my statements in connection with the Los Angeles-Seattle Express, Pacific Truck Express to be correct, can you think of any two metropolitan areas in the entire eleven western states with anywhere near the size and the importance of San Francisco and Portland that have only one through truck service between them?

A. Oh, yes.

Q. Can you name it?

A. Well, in volume of tonnage your situation between San Francisco and Sacramento; the volume of tonnage would be a
match for the tonnage that would move between those two
1604 points and there is a case where there is no through truck service of any kind between two large areas.

Q. Doesn't your company operate there?

A. Well——

Q. (Interposing.) I am talking about interstate commerce, Mr. Frasher.

A. Well, interstate—well, I don't know.

Mr. BEROL. I think that is all I have.

Mr. SCHAFER. I have some questions, I believe.

By Mr. SCHAFER:

Q. Did I understand that you act as agent for Pierce here and do his pick-up and delivery and you bill and rate his freight?

A. Yes.

Q. You do their collecting?

A. Yes.

Q. And their soliciting also?

A. That's right. Of course, they do have some of their own soliciting, but we solicit for them also.

Q. You collect a fee for that service on a percentage basis, a percentage of the gross or so much per hundredweight?

A. So much per hundredweight.

Q. Do you or does your company have any financial interest directly or indirectly in Pierce Auto Freight other than performing this agency service for them for a certain sum per hundredweight?

A. No; we have no money invested in their business.

1605 Q. You have on the occasion when their through service to San Francisco was increased from once weekly to daily just a few days before the hearing in this case, lent him some equipment to make that through service possible, didn't you?

A. Well, we leased a piece of equipment. I don't know as "it made that through service possible," but we had some extra equipment and he wanted to lease it, so we leased it to him.

Q. You leased it to him at that time when he commenced his through service daily?

A. Yes.

Q. Prior to June 23rd, when Pierce was operating once a week, you were doing his billing and rating and soliciting and loading and other agency services, weren't you?

A. Yes.

Q. On the other five days you shipped freight which was billed on Pierce bills to Pierce at Medford via Oregon-Nevada-California Fast Freight, isn't that right?

A. Freight that was routed for Pierce was sent to Medford via the Oregon-Nevada-California Fast Freight; yes.

Q. And then one day a week Pierce came in with a vehicle of his own, was that the situation?

A. I believe that's true. Mr. Pierce would be a better witness on that than I would.

Q. Well, you are in charge of the Valley Express which

1606 performed all these agency services?

A. Yes.

Q. You are well qualified, aren't you, to say what was done?

A. Well, I am as a general matter. But as to how often his truck came into San Francisco, I am not here every day and I couldn't swear as to whether it is once a week or not. That is my opinion, however.

Q. Has it been your observation over a period of time and experience in this business that when a new service is started that it takes a lot of time and solicitation effort to build it up into a daily dependable volume? Isn't that correct?

A. As a general rule that is correct; yes, sir.

Q. And when Pierce started his one day per week service he was starting from scratch with no business at all?

A. Well, that's not entirely so because in the past Pierce was operating daily into San Francisco, and I don't recall how long that continued, but I believe better than a year. And at that time the volume of business amounted to about ten ton a day like it is running now.

Q. And then he ceased operating and the business disappeared entirely and it got back to the point where he commenced operating again one trip a week and he was confronted with the same problem again of building a business?

A. That's true.

1607 Q. How long has he been operating—how long have you been performing these agency services for him?

A. Well, we have always acted as his agent here since 1935.

Q. Do you know how long it has been since he commenced operating this last time?

A. I wouldn't know the exact date, but I believe it was in July when he commenced the daily service this time.

Q. When he commenced the once weekly service?

A. I don't know for sure. It has been over a year or more, but just exactly when I don't know.

Q. And over that period of time he has built his business from nothing to ten tons per day?

A. Yes.

Q. It is better since he started operating daily, I believe you said?

A. Well, I might explain this: That some portion of that tonnage is Valley Express tonnage and, naturally, when Mr. Pierce commenced daily operation we gave him that tonnage along with his own. I believe that of that tonnage that approximately four tons are tonnage which originates with Valley Express, which had always moved.

Q. Prior to the daily service being put on, how did it move?

A. It moved Oregon-Nevada-California Fast Freight and Pierce beyond Medford.

Q. You are not afraid here that if Oregon-California Fast Freight is permitted to operate through or that if Consoli-

1608 dated Freightways is permitted to operate into San Francisco that Pierce will lose that four tons daily which you now give him? You control that, don't you?

A. Oh, no. He won't lose that; no.

Q. You take care of that?

A. Right.

Q. Did you ever use any other line out of San Francisco to Portland than Pierce and Oregon-California-Nevada Fast Freight? Any other motor carrier?

A. No; not in recent years.

Q. Why didn't you use others?

A. Well, we were friendly with Pierce and the Oregon-Nevada-California Fast Freight, and we had no reason to use any other line.

Q. Can you name any other line that was available for your use three years ago?

A. Well, the same ones that I named for Mr. Berol. They have been operating right along, as far as I know.

Q. You can't name any other line that was operating out of San Francisco on daily service except Pierce and Oregon-California Fast Freight and except Pacific Truck Express or its predecessor?

A. Well, no. This Los Angeles-Seattle Auto Freight used to leave shipments at our depot here in San Francisco, but because they were competitive to our other hook-up we told them we
1609 didn't want to take care of their shipments. So I don't know how they got ahold of the shipments, but at least they brought them in to our depot.

Mr. SCHAFER. Well, I won't cross-examine you on their operation.

You are going to have a witness on the stand, Mr. Ivers?

Mr. IVERS. Oh, I am sure we will.

Mr. SCHAFER. At this time I will ask counsel for Mr. Pierce whether Mr. Pierce will testify as to his own business, so that I can curtail cross-examination of this witness.

Mr. ELLIS. Very definitely. I am sure he will.

By Mr. SCHAFER:

Q. Did you ever make any survey of the cost of reloading, unloading, remanifesting, rebilling the general run of merchandise that moves from here to points in the northwest by truck?

A. Yes.

Q. And from your survey will you give me a rough idea as to what the cost of all those services is?

A. Well, we keep a daily record of our costs at all of our depots, and, as I recall, the cost of transferring and loading here in San Francisco is 59 cents a ton. That is the labor end of it. That is the management and labor end of it.

Q. And does that also include rebilling and remanifesting?

A. No. If you choose to rebuild, remanifest, that would run about 13 cents a ton.

Q. If on the 75 tons that you now handle between San
1610 Francisco and Los Angeles you were for any reason at all

compelled to interchange and rehandle, could you render as fast a service as you do now?

A. No; we couldn't.

Q. It would delay you several hours, would it not?

A. Yes; it would.

Q. And I believe you have already testified that with every rehandling the possibility of damage and shorts and such matters is increased?

A. That's true.

Q. You don't have any option on the Pierce Line?

A. No; I don't.

Q. Nor your company?

A. No. I would like to have one, but I don't have it.

Q. Do you accept freight at Los Angeles for Klamath Falls?

A. Yes; we do.

Q. Who do you connect with for the transportation beyond San Francisco to Klamath Falls?

A. Oregon-Nevada-California Fast Freight.

Q. Do you know of any other motor carrier service between San Francisco and Klamath Falls?

A. No; I am not familiar as to whether there are others or not.

Q. Do you accept as agent for Pierce at San Francisco freight for Klamath Falls, Lakeview, Bend, Burns, and such points

1611 as that?

A. Offhand I am not sure. If he has joint rates and the goods are routed we would accept.

Q. And if he has no service at all to those points, would you then say that you are not opposed to the application of Consolidated Freightways to operate from San Francisco to such points not served by Pierce or any other line which you represent?

A. We have no objection so long as it doesn't interfere with our service and Mr. Pierce's. We have no objection to any other service.

Q. Do you have any idea as agent for Pierce at San Francisco what percentage of his total freight is destined to such points as North Idaho and Montana and Spokane?

A. No. Mr. Pierce has those records. I think he would be better qualified to give the answer.

Q. I will save further questions along that line for Mr. Pierce. Freight moving north-bound between San Francisco and northwestern points runs mostly to general merchandise upon which speed in transit is an important factor, isn't that true? By that question I mean the rails and the boats handle the heavy base commodities, the slow moving commodities?

A. The longer distance goods are traveled, the higher value, the more service, the speed in moving is required.

Q. And as a general rule isn't it true that the higher
1612 valued merchandise is bulkier or weighs less per cubic foot?

A. Generally that is correct.

Q. And then the cubic space in your vehicles is more important on a run of this type than it would be on a real short run? I will ask that question another way. You claim that you can handle 20 tons, is it, in this equipment which you have in California?

A. Yes.

Q. Are you always able to load 20 tons of this general high-class merchandise in your equipment?

A. No. I forgot to bring out the fact that we don't average that much weight and for that reason this particular unit works just as well in California as well as any other place, because our experience is for loading in California around eleven tons. So even though you could pack the weight on this vehicle your cubic capacity for getting the goods on, you can't get the 20 tons on except in low-grade commodities.

Q. Supposing you had a commodity which would load 20 tons in one of your vehicles. You would haul 20 tons to the Oregon Line and then at the Oregon Line you would have to dump off about seven and a half tons?

A. Well, six tons, although I am of the opinion that arrangements could be made to go to Medford with the entire load. I believe at the present time some of the carriers go to the next town this side with the full load where freight is broken
1613 up.

Q. With the permission of the State of Oregon?

A. That's right.

Q. Mr. Snead, the witness for Consolidated Freightways, testified that in a truck and trailer which has a cubic capacity of 2,600 cubic feet compared to your 2,000 cubic feet he could only load 10 tons of the general merchandise of the type which moves up and down the coast. You are not in a position to dispute that figure?

A. No; I am not. I know that they are averaging ten tons a night at the present time and we have some space left in that vehicle.

Q. Do you bill all the way through to Spokane on the Valley Express bills?

A. Yes, sir.

Q. And do you know whether the freight is delivered at Spokane on Valley Express bills?

A. No; I don't. I have only general information from truck solicitors who have told me that they have seen Valley Express bills in various offices of carriers in the northwest. As to whether they deliver on those bills or not I don't know.

Q. Are all of your agents, even the commission agents, authorized to write drafts, the smaller commission agents?

A. Well, we have no commission agents. Any carrier handling Valley Express shipments is authorized to pay the c. o. d.'s by draft.

1614 Q. The carrier to write the draft rather than some small commission agent out in a small town like eastern Washington.

A. We have no commission agents; just the carrier himself or any of his agents can pay c. o. d.'s by draft.

Q. In connection with your line, I believe Consolidated Freightways shipped some frozen goods from James Fenwick which were destined to Fresno; and when they were turned over to your company at San Francisco you, not having any mechanical refrigeration, handled them in some other manner between San Francisco and Fresno and I believe a claim of some $300 has arisen. Do you know anything about that matter?

A. No; I hadn't heard about that. Is that just recently?

A. Oh, within the last six months.

A. I don't recall of it.

Q. You don't even know of such a claim?

A. No; I don't.

Q. You don't even know whether it has been paid or not?

A. No.

Q. You wouldn't know whether your agents had corresponded actively on this subject, would you?

A. Well, generally any claim of any size is called to my attention. But I just didn't happen to hear of this one. If it is a just claim I can guarantee you it will be paid.

Q. Aside from this interchange between San Francisco and Los Angeles what other carriers do you interchange with?

1615 A. United Motor Transport.

Q. Where do they operate?

A. Sacramento to Reno.

Q. Is that daily or occasional?

A. Daily.

Q. Have you any interest at all in that line?

A. That is a subsidiary of ours now, although it was not for a number of years. There was a singly owned line.

Q. Have you any interest at all in the Pacific Freight Lines that operate between Fresno and Los Angeles?

A. No monetary interest.

Q. What kind of an interest do you have?

A. They are just good friends of ours, that's all.

Q. And you haven't today interchanged any equipment with Pierce, have you?

A. No; we have had no loads of sufficient size to interchange. However, the equipment which he uses and the equipment we use are identical and could be run through at any time, and we are perfectly agreeable to do so and I know that Mr. Pierce is.

Q. You never interchanged any equipment with Oregon-Cal., did you?

A. No.

Q. But now that this situation has come up it appears to you to be a very good idea and you should interchange equipment
1616 with Pierce and perhaps Oregon-Cal., too?

A. Well, it doesn't appear to me to be a good idea at the present time. It is just naturally and logical that wherever you have full loads, if you can run the equipment through it is better handling by far than to transfer.

Q. Where do you have shops?

A. In Fresno and San Francisco.

Q. Supposing a Consolidated trailer with its own mechanical refrigeration system, which it spent some $30,000 developing, should arrive at about Fresno or along in there and a mechanical refrigerating unit failed, would your mechanic have any idea of what to do and when and where to find the parts for that unit or how it was hooked up electrically?

A. Well, I don't know. I don't know what kind of a piece of equipment you have. However, we have had new motortrucks come in that were just as foreign to a mechanic as anything else would be and, certainly, it wouldn't take him very long to learn. If you were going to send your equipment through our lines, and that was a complicated piece of equipment, we would certainly see to it that the mechanic knew how to fix it, and if we couldn't get it fixed we would hang bags of dry ice in the equipment so that the goods would be taken care of.

Q. Quite a few men familiar with refrigeration products have testified that dry ice is not appropriate refrigeration for
1617 certain types of products such as vegetables and such as lettuce. Have you any experience along that line?

A. That is true. It takes wet ice for lettuce.

Q. In order to adopt your idea of what is proper in the way of equipment to be interchanged, Consolidated Freightways would have to junk several hundred thousand dollars' worth of equipment. Would that have any bearing upon the opinion of the practicability of this situation?

A. Well, I gather that you are merely posing a——

Q. That's right. I said if it should appear to you that they would have to junk several hundred thousand dollars' worth of equipment which they now own and operate in order to comply with the interchange of ideas that you have suggested here, would

you say that it would be practicable and should be forced upon them?

A. No. If what you say could be true, then some consideration should be given before you are forced to do so. However, I did suggest that each carrier could run his own equipment through to destination under lease to the other, and under that situation you would not have to junk any equipment.

Mr. ELLIS. If I correctly interpret this record the Consolidated testimony is to the effect that they are going to purchase substantial quantities of new equipment to carry out this oper-
1618 ation. I think the question is unfair to the witness and contrary to the record.

Mr. SCHAFER. In answer to that, I think you heard very clearly the testimony that was given at Portland to this effect: That Consolidated would need no more equipment to haul 50 percent of the freight all the way than it now uses to haul a hundred percent of the freight half way and it would not need any new equipment to put on this service.

Mr. ELLIS. There is definite testimony of Mr. Snead that you propose to purchase at least six new units at $12,000 apiece, or my recollection of the record is poor. Page 550 of the record: In Mr. Snead's testimony he refers to $9,000, and that they don't use superchargers and an additional amount for superchargers.

Mr. SCHAFER. We will let the record speak for itself. I believe Mr. Snead was testifying on the cost of the equipment which they had adopted as standard.

Mr. ELLIS. He was referring about new units that were going to be purchased for this run.

Mr. SCHAFER. I have no further questions of this witness. Thank you very much.

Chairman TERRIL. Anything further, Mr. Ellis?

Redirect examination by Mr. ELLIS:

Q. In answering the question as to what your objections might be to the granting of applications in territory where neither you nor Pierce were handling traffic, did you intend in any way
1619 to express an opinion on the subject of public convenience and necessity or additional carriers in those territories?

A. No.

Mr. ELLIS. That is all.

Chairman TERRIL. Mr. Ellis, do you care to offer this in evidence?

Mr. ELLIS. At this time I would like to offer in evidence the photograph marked for identification as "Exhibit No. 13."

Chairman TERRIL: Any objection?

Mr. SCHAFER: No objection.

Chairman TERRIL. Hearing none, it will be admitted in evidence and marked as "Exhibit No. 13."

(Exhibit 13, Witness Frasher, received in evidence.)

Mr. ELLIS. Mr. Williams, will you take the stand?

T. G. WILLIAMS was sworn and testified as follows:

Direct examination by Mr. ELLIS:

Q. Will you give the reporter your initials, Mr. Williams?

A. T. G. Williams.

Q. What is your place of business?

A. 362 Third Street in Oakland.

Q. And what is that business?

A. Independent Live Poultry Company; live poultry,
1620 eggs and dressed turkeys.

Q. Do you have any branch offices or places of business in Oregon?

A. We deal with the Medford Poultry and Egg Company in Medford, Oregon.

Mr. BEROL. Just a moment, please. I am sorry. I can't hear the witness.

Chairman TERRIL. Let us have the competition reduced, too, and have a little more quiet, please.

Mr. BEROL. His name?

Mr. ELLIS. Williams.

Mr. BEROL. What company?

The WITNESS. Independent Live Poultry Company.

By Mr. ELLIS:

Q. The company at Medford, as I understand, is operated under another name?

A. Mr. G. R. Kirkpatrick is sole owner.

Q. And you do business with them, do you?

A. Yes.

Q. Just in a general way what is the business which you conduct?

A. Turkeys, dressed turkeys, eggs, and live poultry.

Q. Will you state the approximate volume of the business which you transact per year?

A. That I couldn't say offhand, but I imagine it would run somewhere around 750,000 pounds.

Q. Turkeys?

1621 A. Turkeys, eggs, and poultry.

Q. Do you do any shipping between Medford and San Francisco Bay?

A. You mean, do I receive any goods shipped from Medford?

Q. Yes.

A. Yes.

Q. What is the nature of those shipments?
A. Mostly dressed turkeys.
Q. And how do they move?
A. They usually move by truck.
Q. By common carrier trucks or your own trucks?
A. Both.
Q. How have you found the service of common carrier lines so far as you have used them to meet the needs of your business?
A. Very good.
Q. Do I understand that your shipments consist primarily of dressed turkeys?
A. Yes; in the holiday season especially.
Q. Out of the southern Oregon territory?
A. Yes.
Q. Have you had any experience with various forms of refrigeration in the handling of those shipments?
A. Well, the refrigeration, as far as the shipment is concerned, so long as it is kept fairly cool, is sufficient. The main point is to have the bird properly precooled before it is
1622 shipped.
Q. What have you to say as to whether or not there is any need for mechanical refrigeration in the handling of your shipments?
A. As I said before, the only need would be to keep the birds cool and have sufficient circulation of air with either dry ice or wet ice; keeping them covered so the sun doesn't beat on them.
Q. Have you ever had experience in handling any substantial quantity of dressed turkeys in equipment other than refrigerated equipment?
A. Yes; quite a bit. We have had turkeys come down to us with this tarpaulin put ove rthem with a package of dry ice put in the front and back.
Q. Do you or does your Medford connection operate any private carrier equipment of its own for the handling of dressed turkeys?
A. Medford Poultry and Egg Company has one truck that they use purposefully to bring down turkeys, chickens, and eggs and to take back feed to Oregon; concentrated feed.
Q. They bring them to your plant, do they?
A. Yes.
Q. What kind of equipment is that?
A. Its a large—I wouldn't say the size, I don't know—but it can carry a limited load. It is an International Truck
1623 with a trailer.
Q. Does it have an insulated body?
A. No. It just has a flat bed with a back board.
Q. And you use that for shipping turkeys regularly?

A. He has brought down three loads within the last, oh, two months.

Q. What kind of refrigeration, if any, is used in connection with those shipments?

A. Just dry ice with a tarpaulin put over them.

Q. Do you find that entirely satisfactory?

A. Very good.

Mr. Ellis. Cross-examine.

Chairman Terril. How long have you been engaged in this movement, Mr. Williams?

The Witness. You mean——

Chairman Terril. In years? How many years?

The Witness. In the poultry industry?

Chairman Terril. Yes.

The Witness. Approximately ten years.

Chairman Terril. And has this movement between Medford or southern Oregon and San Francisco existed during that period of time.

The Witness. No. Up until about four years ago the majority of it came down by express.

Chairman Terril. Of your present volume how much
1624 moved by common carrier truck, if you know?

The Witness. During the last holiday season?

Chairman Terril. Well, over any given period of time.

The Witness. Oh, we handled approximately 80 tons at Thanksgiving and approximately 80 tons for Christmas of last year.

Chairman Terril. And that all came by truck?

The Witness. That all came by truck; mostly Pacific Truck and Oregon-Cal.

Chairman Terril. Is that in truck or trailer load quantities?

The Witness. Sometimes it would be a trailer and sometimes on the truck and sometimes a part load.

Chairman Terril. No north-bound movement?

The Witness. None whatsoever; no.

Chairman Terril. Cross-examine.

Cross-examination by Mr. Berol:

Q. What transportation facilities have you used, common carrier?

A. Pacific Truck and Oregon-Cal.

Q. You ship from Medford, I take it?

A. Yes.

Q. They both provide pretty good service, don't they?

A. Yes; they both provide a very good service.

Q. How long have you been shipping by Oregon-Nevada-
1625 California Fast Freight?

A. Oh, I don't know that. I would have to look into the records. It has been years.

Q. Insofar as you have had experience with them you would say that they are a dependable transportation agency?

A. Yes. Their transportation facilities have been fairly good. At times their service has been slow, but that is sometimes unavoidable.

Mr. BEROL. Thank you very much.

By Mr. SCHAFER:

Q. Do you presently use Oregon-Cal?

A. We haven't for the last six months.

Q. Who do you use now? Pierce?

A. I haven't at present used Pierce, no; although we are thinking of doing so.

Q. What have you been using the last six months?

A. I haven't—dressed turkeys haven't come down. Mr. Kirkpatrick has shipped down mostly eggs and chickens and a few dressed turkeys in his own truck.

Q. You have never used Pierce's service then?

A. No; I haven't.

Q. Then any business that Oregon-Cal or Consolidated might enjoy which you ship would not be taken prom Pierce, would it?

A. You mean if it should come through Oregon-Cal?

Q. Assuming that Consolidated Freightways is fortunate to prevail in this application and was able to convince you
1626 that you should use their service on part of your freight, that freight would not be taken from Pierce, would it?

A. Well, to be honest with you, it could be, yes. Of course, price is a big item. But if the price is the same, I have always sort of favored the small man as much as I can.

Q. You expect to give Pierce, then, the business which you formerly have given Oregon-Cal.

A. And Pacific Truck.

Q. Because Pierce is smaller?

A. Yes.

By Mr. GLANZ:

Q. Mr. Williams, have you ever heard of the service of Colletti Fast Freight?

A. I have heard of it; yes.

Q. And have you ever used that service?

A. No; I never have.

Q. Do you know that it is available from San Francisco to Pacific Northwest points?

A. I don't know that to be a fact; no.

Q. Do you feel that that is an additional service upon which you might have occasion to call if you should happen to need any other service than you have at the present time?

A. Yes. If there was a need for me to have additional service I would be glad to call them.

Mr. GLANZ. Thank you very much.

Mr. BEROL. May I ask a question prompted by counsel?

1627 By Mr. BEROL:

Q. Have you ever heard anything good about the Colletti Fast Freight?

A. In answer to that I will say that I have never heard anything bad, either.

By Mr. SCHAFER:

Q. Has Colletti Fast Freight ever called upon you and urged you to use their service between Medford and San Francisco?

A. Not to my knowledge; no.

Chairman TERRIL. That is all. You may be excused.

(Witness excused.)

Chairman TERRIL. We will take a short recess.

(Whereupon a short recess was taken.)

Mr. FARRENS. Mr. Elliott, please.

ROBERT S. ELLIOTT was sworn and testified as follows:

Direct examination by Mr. FARRENS:

Q. Will you give your name, residence, and occupation?

A. Robert S. Elliott; Route Agent, Railway Express Agency, 635 Folsom Street, San Francisco.

Q. Mr. Elliott, in the Consolidated case a witness by the name of Virgil R. Chilson testified that he was in the fish business, doing business at Port Orford, and shipping from Port Orford on Fridays so that the arrival of seafood in San Francisco occurred on a Sunday; that there was no delivery service by Railway

1628 Express Agency on Sunday in San Francisco. What is the fact?

A. The fact is that the Railway Express Agency does deliver seafoods or, in fact, any commodity to any firm that is open on Sundays. It is to our advantage to deliver on Sundays because on this five and five and a half day week a lot of firms are closed on Saturday, and the result is on Monday we have what we call a three-day delivery, and any firms that we can deliver on Saturday or on Sunday we gladly do. At the present time seafoods and fish and crab meats going to firms on Fisherman's Wharf that are open, we make a Sunday delivery.

Q. Mr. Chilson also testified that via the Railway Express

Agency he had experienced damage to shipments on account of rough handling. He also testified that claims had been advanced by him and that they had been refused by the Agency. Have you made any check in respect to that?

A. I checked up the claim files for the months of July, August, and September of 1940 going to Oakland, Berkeley, and San Francisco, and I cannot find where Mr. Chilson ever filed a claim.

Q. In the Oregon-Nevada-California Fast Freight case a witness by the name of C. Bud Meredith testified that he was in the fish business, connected with Meredith Fish Company, and he testified concerning the shipment of fish by his company and
1629 others to Astoria to Salmon canneries, the fish being salmon which are caught in the Sacramento River. In that connection he testified that the traffic of his company was largely controlled as to routing by Lloyd Turnacliff. Do you know Lloyd Turnacliff, or have you met him?

A. I have.

Q. Did Lloyd Turnacliff on behalf of the Meredith Fish Company and others approach American Express Agency for a rate for the shipment of salmon from Pittsburgh to Astoria?

A. Lloyd Meredith with Leon Shatz, Secretary-Treasurer of the Paladine Fish Company, made an application to the Railway Express Agency for a fish rate between Pittsburgh and Astoria. Mr. Shatz found our Assistant Western Traffic Manager, Mr. E. Stern——

Mr. BEROL. Just a minute. May I inquire at this time as to what the relevancy of this testimony is? My recollection of Mr. Meredith's testimony was that he was interested in shipping from Sacramento. What bearing or basis do shipments from Pittsburgh have?

Mr. FARRENS. I don't think that is correct. He named Pittsburgh in his testimony, I think.

Mr. BEROL. If he did, it isn't relevant and can have no bearing upon these issues because the application here does not involve the service at Pittsburgh. My recollection is that the witness Meredith testified only as to shipments originating at Sacra-
1630 mento, and if he did go beyond that and testify as to shipments originating in Pittsburgh he testified without the scope of the application and, certainly, it can have no bearing upon the application.

Mr. FARRENS. I find by examining the transcript that Mr. Meredith testified that the office of his company was located at Sacramento; that the fish were caught in the Sacramento River. I will ask the witness to go no further in the answering of that question, and I will ask another question.

By Mr. FARRENS:

Q. At what Railway Express Agency would salmon be shipped which is caught in the Sacramento River and which is destined to Astoria?

A. Well, the large shipping firms that handle fish—

Q. Including Meredith Fish Company?

A. Well, no. I won't say Meredith. I don't think Meredith has got a branch in Pittsburgh, but he did ship salmon out of Pittsburgh in the season in 1940.

Q. Is that salmon that were caught in the Sacramento River?

A. Yes, sir.

Q. All right. Will you proceed to explain what you were about to explain about the application of Lloyd Turnacliff of the Meredith Fish Company and Leon Shatz.

Mr. BEROL. To which I will object on the ground that it is incompetent, irrelevant, and immaterial; that the witness is about
1631 to testify as to an application made by others than the witness Meredith for shipments out of Pittsburgh. The witness Meredith testified as to the need for shipments for transportation facilities out of Sacramento. Now, obviously, whatever application may have been made by Turnacliff or someone else for a point that may be 50, 60 or 80 miles away from Sacramento can have no bearing upon the testimony of the Witness Meredith as to his need for transportation facilities out of Sacramento.

Mr. FARRENS. If the Board please, the question that I was asking is preliminary to prove precisely that the shipments which the Meredith Fish Company has made out of Pittsburgh are precisely the shipments which he discussed made by a truck out of Sacramento, and I want to tie up what I am asking about Mr. Turnacliff with the testimony of the Witness Meredith by referring him to page 868 of the transcript, where the Witness Meredith was asked, "Does Dudley Turnacliff of your company control the routings?

"A. Dudley Turnacliff is not interested in our company in any way whatsoever.

"Q. He is not?

"A. No, sir. His brother Lloyd is, but not Dudley Turnacliff.

"Q. All right. Lloyd Turnacliff, does he control the routings?

"A. He doesn't control it entirely; no.

"Q. Well, to what extent does he control it?

1632 "A. He has the authority to have anything shipped by any carrier, and I am here in his place as he happens to be opening up another plant today."

So that this witness Meredith testified that he was on the stand testifying in behalf of the Lloyd Turnacliff about whom this witness is now testifying.

Mr. BEROL. Well, if the witness of his own knowledge can estab-

lish that the petition pertaining to the rates out of Pittsburg covered exactly the same type of traffic as the Witness Meredith testified to he proposed to move out of Sacramento by this applicant, then I won't object. I will ask that a proper foundation first be laid.

Mr. FARRENS. That is what I am trying to do, and I will assure counsel that it does apply to precisely the identical traffic.

Mr. BEROL. For the time being I will withdraw my objection.

A. Again, I will state that it was on July 29th. I was in Mr. Stearns' office when he received the request for a rate on fish, salmon, to be moved out of Pittsburg, California, to Astoria, Oregon. On August 13th I was in conference with Mr. Lloyd Turnacliff, Mr. Leon Shatz, and Mr. Frank Cardinale in Pittsburg, Mr. Cardinale being manager of the Pittsburg branch of Paladini, talking to them about the service, the handling, and so forth.

1633 On August 13th in our I. C. C. Supplement 5 to I. C. C. 3786 a fish rate was put in the tariff covering fresh fish, minimum weight 30,000 pounds, net weight, between Pittsburg, California, and Astoria.

By Mr. FARRENS:

Q. Now, is Pittsburg the place at which rail and express shipments are normally received for fish caught on the Sacramento River, instead of Sacramento?

A. Yes, sir.

Q. Do you know from the conversation which Turnacliff and Paladini's representative had with you whether this salmon was proposed to be shipped by those companies from Sacramento River points to Astoria for delivery to canneries at Astoria pursuant to some contract arrangement which these fish companies had with those canneries?

A. In our conversation I was advised that they had a contract with the Columbia River Salmon Company to take all the salmon they could catch in the Sacramento River.

Q. And that is why they wanted this rate?

A. That is why they wanted this rate.

Q. When you published this rate, to which you have just referred, and agreed to publish it, what did they say with respect to whether or not that rate met that request?

A. They were very much elated over the rate. In fact, that is the rate that they asked for: A dollar a hundred.

1634 Q. And did they state whether or not they would ship by express at that rate from Pittsburg to Astoria to the canneries the fish which they proposed to supply under their contract with the Astoria cannery?

A. They told me they were going to ship all the salmon they could catch in the Sacramento River to Astoria.

Q. On that rate?

A. On that rate.

Q. And what did they in fact do subsequently?

A. They shipped twelve carloads of salmon from Pittsburg to Astoria totaling 437,289 pounds.

Q. When did the first car of salmon move from Pittsburg to Astoria?

A. The first car of salmon moved from Pittsburg to Astoria on September 4, 1940, and the last car moved on September 17, 1940.

Q. I wish you would describe the manner in which fish received between Marshfield and Eugene and out of Klamath Falls and out of Sacramento is handled.

A. Well, fish received in Marshfield is first carried to Eugene and routed via the Cascade route, which goes through Klamath Falls. The fish—we furnish what we call an ice helper, to re-ice that fish enroute. An ice helper is furnished out of Marshfield and one or more ice helpers are furnished out of Klamath Falls to keep the fish well iced en route.

1635 Q. On heavy days do you make up what is known as a fish pack?

A. If we have any large quantities we make a fish pack. A fish pack consists of several thermos blankets. These blankets are laid on the floor and completely surround the boxes of fish, going up the sides and over the top; and we also place dry ice under these covers to keep the fish under refrigeration at all times.

Q. What do you do with oysters or crabmeat when it is contained in glass?

A. Oysters and crabmeat we do not place under these thermos packs. We keep them in what we call the outside. The boxes are not large enough to carry any large quantity of ice, and the result is that it needs constant attention. After the fish or oysters and crabs are iced we place ice on top of the boxes. We use the term of a "messenger." He puts the belly on top.

Q. When ice is used for re-icing oysters and crabmeat, what kind of ice is used?

A. Crushed or shaved ice.

Q. Do you use lump ice at all?

A. No, sir; because lump ice would break the backs of the crabs when you force the cover down, so we have to use a shaved or a crushed ice.

Q. Are the methods that you have been describing in the

1636 experience of the Express Company productive of satisfactory results so that shipments are delivered with a minimum of damage claims?

A. They are.

Q. Mr. Elliott, before we forget entirely about the fish from Pittsburg to Astoria, will you explain the routing and give us the time in transit?

A. We furnished the shippers five routings. One train would leave Pittsburg at 8:08 at night and arrive in Pittsburg at——

Q. Astoria, you mean?

A. Astoria, rather, at 9:40 p. m. the following night—11:40 a. m. the second day.

Q. Let us get that clear. It leaves Pittsburg at 8:08.

A. It leaves Pittsburg at 8:08 and it would arrive in Astoria at 11:40 a. m. on Wednesday. Another routing was to leave Pittsburg at 11:01 A. M. on Monday, arrive in Astoria at 9:40 p. m.

Q. The next day?

A. The next day. Another routing, which would be via the Santa Fe Railway in connection with the Southern Pacific, would be out of Pittsburg at 4:59 a. m. and arrive the next morning at 11:40 a. m. And another routing was out of Pittsburg at 6:17 p. m. on a Monday and arrive in Astoria at 11:40 a. m. on Wednesday.

Q. Did the twelve cars of fish which actually moved use
1637 all of these routings or some part of them, or how did they move?

A. No. These twelve cars that moved left Pittsburg at approximately 11:00 p. m. and was routed on the S. P. via Stockton and arrived at Astoria at 11:40 a. m. on the second day.

Q. Were there any complaints about that method of handling?

A. No; there was not.

Q. Mr. Elliott, have you prepared a schedule showing Railway Express service between San Francisco, Oakland, Alameda, and Berkeley and certain main points in California, Oregon, and Washington?

A. I have.

Q. Will you explain whatever is necessary to explain about this schedule?

A. These are the services of the Railway Express Agency between San Francisco and East Bay points and different points in Oregon and Washington. For instance, Train #224 #16—the reason why there is a split in that is because Train #224 operates between San Francisco and Sacramento and connects with Train 16 at Sacramento. It shows the time of departure of the train at 7:30 a. m. at San Francisco and 8:02 a. m. at Oakland, and so

on, up until the time it arrives at Portland at 7:40 a. m. the following morning. It shows its connection at Portland with a G. N. train going to Seattle and Tacoma, and also with an
1638 S. P. & S. train going from Portland to Spokane.

Q. Do I follow this Train 224 16 schedule? Do I understand that the train, having arrived in Portland at 7:40, gives your express a connection with the Great Northern train leaving Portland 55 minutes later; that is to say, at 8:35 a. m.?

A. Yes, sir. That is the service we give.

Q. And that it arrives, therefore, in Tacoma at 1:04 p. m. first day after departure?

A. That's right.

Q. And Seattle at 2:20 p. m. on the afternoon of the first day after departure?

A. That's right.

Q. And the S. P. & S. connection, does that mean that departures on Train #224 in the morning from San Francisco arrive at Spokane at 7:30 p. m. the first day after departure?

A. That's right.

Q. With that as an illustration, will the exhibit prove self-explanatory?

A. Yes, sir.

Mr. FARRENS. I ask that this exhibit be given a number and received in evidence.

Chairman TERRIL. It will be numbered 14.

(Exhibit 14, Witness Elliott, marked for identification.)

Chairman TERRIL. Is there any objection to its receipt
1639 in evidence? (No response.)

Hearing none, it will be received and designated by that number.

(Exhibit 14, Witness Elliott, received in evidence.)

By Mr. FARRENS:

Q. Now, Mr. Elliott, I wish you would go ahead in your own language and explain your pick-up and delivery service.

A. Well, in nearly all towns and in also cities we give what we call a freee pick-up and delivery service. It is defined, and these limits are in these different towns with the different commissions. This free pick-up and delivery service, as we call it, is included in the rates that you pay for your shipment. We make every effort to give just as expedited service as possible and make all calls so they will go out on the first train available to the point where the shipment is going.

Q. Now, on your north-bound traffic, Mr. Elliott, Train No. 224, does that leave from the San Francisco station?

A. The time shown on here at San Francisco is the time the

ferry boat departs from the foot of Market Street for Oakland Pier.

Q. And is that traffic taken across in the pick-up trucks in which it is collected or by a different truck?

A. No. That traffic is brought to Pier 14 and is assorted to cars and sent over on what we call a coupled gear. A coupled
1640 gear is a motor truck that will operate from either end and it is run right up to the cars and loaded into the cars. The reason I say it is separated into cars is that—take the Train in question, it might have two cars. One car would be a Portland car and one car would be a Seattle car and the separations have got to be made to the cars. We would not put Seattle freight in a car whose destination was Portland.

Q. Do you have any trouble or do your employees have any trouble, Mr. Elliott, in making those segregations?

A. No; they do not. They are trained for that purpose. In fact, our employees at the Oakland pier and San Francisco have more than one train to make separations for. For example, take our Train No. 10, the Overland Limited that operates from here to Chicago. It has as many as seven head-end cars; a car cut out at Ogden, Utah; one car cut out at Omaha; and the other cars are going to Chicago. And at Chicago they are branched out to go over different railroads. For instance, it might be operated over the B. & O. or the Erie, or the New York Central or the Pennsylvania, and they have to make the separations for each one of these cars for the freight that is in there.

Q. Do they have any difficulty in knowing where numerous stations are that are reached thus, by this Overland train all through the Middlewest and East?

A. No; no trouble at all.

1641 Q. Mr. James, the President of Consolidated Freightways, testified that two of the fourteen reasons why interchange at Medford was not satisfactory were, first, number 6 on his list, Errors in Accepting Shipments as to Destination; and number 12, Misrouting of Shipments at Junction. What steps does the Railway Express Company take so that their employees will avoid making errors of that sort?

A. Well, in I. C. C. 83 for each State in the Union we have a list of the offices. For example, I have before me Oregon. We have a list of all the express offices in the State of Oregon. And if you happen—if the employee was to look at that tariff and find out that the town he was looking for was not shown as an agency he would look on what we call our express waybill guide. It is supposed to show every town in the State of Oregon and the nearest office thereto. Now, these waybill guides, the print shows in

Roman type whether the office is on the railroad, and if it is off the railroad it is on a metalic type.

Q. I have what appears to be a supply of them.

A. And every month the Express Agency issues a supplement to show whether the offices are opened or closed. Also it issues a supplement to the express waybill guide showing the additions of towns that wasn't in the regular guide. It shows where they billed to. Sometimes there is a change, such as there might be
1642 some truck route that would operate closer to one town than the other, and you have to change the waybill guide to show that it would go to another town.

Q. You have been talking, I believe, about the publication which has just been distributed, which is headed at the upper right-hand corner "Oregon Section (Ore.)" and over on the left-hand side it says "P. U. C. Ore. No. 3," am I correct?

A. That's right.

Mr. FARRENS. I offer that document in evidence and I ask that it be assigned a number.

Chairman TERRIL. Any objection?

Mr. BEROL. Is that still in effect? I notice it is dated 1937.

The WITNESS. Yes; it is in effect, Mike.

Mr. BEROL. No objection.

Chairman TERRIL. Hearing no objection, it will be received in evidence and marked as Exhibit No. 15 in this matter.

(Exhibit 15, Witness Elliott, received in evidence.)

By Mr. FARRENS:

Q. You spoke of supplements that are published of your joint regular express stations. I am passing out a document, and I believe you have it before you. Is that such a supplement?

A. That's the supplement; yes, sir. That is the one that is just issued monthly and shows the corrections.

Mr. FARRENS. I will offer the document which has just been distributed, and which is the monthly supplement referred
1643 to by the witness, be received as Exhibit 16.

Chairman TERRIL. Any objections to this exhibit?

Mr. BEROL. No objection.

Chairman TERRIL. It will be received and marked as 16.

(Exhibit 16, Witness Elliott, received in evidence.)

By Mr. FARRENS:

Q. Now, what was the other document? The waybill guide?

A. The waybill guide. Each State in the Union—there is a waybill guide issued for each State in the Union and the District of Columbia.

I only brought Oregon with me.

Q. Do you have enough copies of that for distribution?

A. No. I cannot do that because we only carry a limited supply in California. All these tariffs are issued from 230 Pacific Avenue, New York. I have two of them here, if that will help. You may have them, if you wish.

Q. Will you tell me whether or not these publications, exhibit 15, exhibit 16, and the waybill guide, are what are used by your employees to avoid misrouting and errors in accepting shipments?

A. They are used for errors in accepting shipments.

Q. And for misrouting?

A. No. Misrouting is handled on what we call a routing scheme. We have these routing schemes that we furnish to employees showing them to points that go into different transfers and go on different trains. We will take, for instance, on the
1644 Oregon Express or the Oregon Route, rather, we have transfer points at Klamath Falls, Eugene, Albany, Salem, Woodburn, Portland. Tacoma is a transfer point, Seattle, Spokane. At San Francisco we make a separation to express the cars. When this gets to Oakland Pier they make a separation from the car to piles. For instance, they make up a Seattle transfer pile, a Tacoma Transfer pile or a Portland transfer pile, and the local points in Oregon between Klamath Falls and Portland we call that the Oregon Way. We throw it all together and the messenger on the train will make the separations to the different points.

Q. Mr. Elliott, do baggage men on the train actually handle United States mail?

A. They do. What is called "Storage" mail, it is handled on trains—start that over. The United States Postal Department might buy space for 3 feet, 7½ feet, 15 feet, 30 feet, or 60 feet.

Q. That is car space you are talking about?

A. Car space. They might have a postal clerk on the train and his space will be only 15 feet. Well, he can only take so many sacks of mail in that car, and any excess the Postal Department will buy. Our messengers act as joint train baggagemen and they have to handle the mail and assort it. They assort to transfer points. Some trains have no mail clerks on and we handle the mail
1645 exclusively. Take, for instance—you take parcel post. Parcel post might be routed via a certain point, whereas the pouch and papers will be routed via another point. The reason why that is done, they will have a contract carrier handle mail between two post offices and the pouches will be handled by a star route.

Q. Well now, how big a territory does the Railway Express Agency cover?

A. We cover all the United States and Canada.

Q. And are your employees so trained that at any agency they can and do accept shipments destined to any point in the United States and Canada and start them off correctly on the proper route?

A. Yes, sir.

Q. Are those employees who handle mail expected to be able to initiate the proper routing for any piece of mail first class or less or parcel post to any point in the United States or Canada or the world?

A. Wherever they are operating, yes, over their territory.

Q. In view of the disclosures of those operations, both express and mail, which you have described, does any reason occur to you why clerks or employees of Consolidated Freightways should not be able to correctly handle routings and accept shipments to any point on the system, the size of Oregon-Nevada-California Fast Freight's operation, or vice versa. What reason, if any, exists why an Oregon-Nevada-California employee shouldn't
1646 be able to handle the acceptance of shipments and routings to points on a system the size of Consolidated Freightways?

Mr. BEROL. Just a moment! That is objected to on the ground it calls for the opinion and conclusion of the witness; and on the further ground that a proper foundation has not been laid. Nowhere is it made to appear that the witness has any knowledge of the operations of the Oregon-Nevada-California Fast Freight or of Consolidated Freightways. It is nowhere made clear to appear that there is an similarity in the operations conducted by these two carriers and the operations conducted by the Railway Express Agency. Furthermore, from the testimony of the witness himself there seems to be a very substantial difference between the operations of the Railway Express Agency, with which this witness is familiar, and the operations of these two applicants with which the witness is not familiar, namely, that all of the operations of the Railway Express Agency are being conducted by employees under the jurisdiction of the Railway Express Agency, whereas the operations of the Oregon-Nevada-California Fast Freight are being conducted only by their employees insofar as a portion of the territory is concerned. The same is true of the Consolidated Freightways.

Now, unless some similarity is made to appear by proper foundation or unless this witness has knowledge of the operations of these two companies in addition to that of his own company, he is
1647 not in a position to offer opinions of whether there are or are not reasons as to whether it can or cannot be done.

Mr. FARRENS. I will withdraw the question temporarily, not because of counsel's objection that it calls for an opinion of the witness, but because I think the witness has laid the foundation show-

ing his ability to give an opinion. But in order to meet the other parts of the objection which went to the scope of the business of the Oregon-Nevada-California Fast Freight and Consolidated——

By Mr. FARRENS:

Q. I hand you, Mr. Elliott, an advertisement appearing in the issue of "Trade Lines" dated September 2, 1940, in which Oregon-Nevada-California advertises the "Family Business" of the Gritsch Brothers, known under that name, and publishes a map in which in black lines are represented the territory and route operations of the Oregon-Nevada-California Fast Freight. Then I advise you that Consolidated Freightways operates the system, the eastern end of which is Minneapolis and St. Paul, the northwestern end of which is Seattle, the southwestern end of which is Klamath Falls and Medford, which generally serves a large portion of the large territory between those terminals. With that information before you I ask you now to answer the question originally asked you on the subject.

Mr. BEROL. I renew my objection.

Chairman TERRIL. The question asked for the witness' 1648 opinion.

Mr. FARRENS. If he knew of any reason, if any reason occurred to him in the light of the ability of the employees of the Railway Express Agency to handle the traffic of the type and scope and over the territory described by him, why a similar ability could not be exercised by the employees of these companies in the interchange of their business over their far more limited systems.

A. No reason whatsoever if——

Chairman TERRIL. Oh, just a minute.

The WITNESS. Pardon me.

Chairman TERRIL. The question is, Do you know of any reason?

The WITNESS. I do not know of any reason why if they were properly trained.

By Mr. FARRENS:

Q. Is proper training and assisted by the publication of the proper documents, such as Exhibits 15 and 16, and your routing guide, what in your opinion is required to meet a situation like that?

A. Yes, sir.

Mr. FARRENS. You may cross-examine.

Cross-examination by Mr. BEROL:

Q. How long has fish been moving from the Sacramento River to Astoria, Mr. Elliott?

A. You mean in carloads or less than carloads?

1649 Q. Either one.

A. Well, I couldn't tell you how long in less than carloads, but since I have been in this territory I do not recall of a carload moving prior to this year.

Q. Has fish from the Sacramento River to Astoria moved in less than carload traffic prior to this year?

A. Yes.

Q. What representations were made by these gentlemen to you in connection with your rates as to whether this movement would be a temporary or a permanent one?

A. Well, it gets back to the war, Mr. Berol.

Q. This one or the last one?

A. This one. Maybe the last one had something to do with it. You know, the fish caught in the Sacramento River is what they call "mild cured" and sold to European countries. This was is on and they can't export it. The result is they had to find a market, and told me their market was to ship it to Astoria to the canneries.

Q. I take it, then, that the fish catch in the Sacramento River is a substantial one year in and year out?

A. Pretty substantial, yes. Then another thing they told me was that the fish in the Pacific Northwest wasn't running this year.

Q. Mr. Elliott, respecting Exhibit No. 15, I am not asking these questions out of idle curiosity. There may be some-

1650 thing in Exhibits 15 or 16 that may give me an idea how to advise my client as to how to correct some of these things. Mr. Farrens called my attention to the fact that my client didn't complain. Maybe I can use some information here or elicit some information that might be helpful to Mr. Schafer and his client. Just exactly what is Exhibit 16 and how does it work? Take, for example, under "A" it says "Acme", block letter "D" in heavy type, "601 D," "(Waybill to Cushman, Ore.)." What does all that mean?

A. Acme is a town. It must be very close to Cushman, Oregon. I don't know—I know where Cushman, Oregon is, but I never heard of Acme before. 601 D is a block number. Getting back to a block number, it is this. The Postal Department divides the United States into zones and the Express Company divides them into blocks. The 601 is the Block. The D is the subblock. There are sixteen subblocks in every block.

Q. Suppose a shipment from San Francisco to Acme, Oregon, what significance would block No. 601 and block letter D have in connection with that shipment?

A. Well, San Francisco is 1203 C, and when an employee received a shipment for Acme he would look it up and see what the

block number was and he would see 601 D, and then he would go to a block tariff and look down and see when he come to 601 D,

1651 that would give him the scale number between San Francisco and Acme, Oregon.

Q. And when he finds that scale number does that scale number appear on Exhibit 15?

A. No; that's another tariff altogether.

Q. When he finds the block number how does he get the scale number after finding the block number?

A. The block number is 601 D. That's the block number.

Q. Yes.

A. He will look into the tariff, which we call the "block tariff," and he will look down. It is all the numbers in all the blocks of the United States, and he will look down and he will see 601 D.

Q. And then what information will that show?

A. It will be scale 48.

Q. When he gets scale 48 what will he do with that?

A. Scale 48 shows the charges for every pound from 1 to 100.

Q. In other words, after looking at the next book, or whatever it is, and finding scale number 12 D, or whatever it may be, then by looking in a tariff alongside of scale number 12 D he knows what rate to assess, is that it?

A. That's it.

Q. All right.

A. And the rate for each pound.

Q. Now, tell me, is this system fool proof in your company?

1652 A. You will have to ask Mr. Sterns that. He was the one that started it.

Q. I might have suspected it was somebody like him! Now, you can't tell me, can you, Mr. Elliott, that in spite of this seemingly very excellent method that is used by your company that you don't have misroutings?

A. Oh, no; not—there is no firm that is as large as ours and handles the millions of shipments that we have a day that we won't have a misrouting.

Q. Or that you don't have misratings?

A. We do have misratings, too.

Q. You are not able to tell me that pound for pound of traffic handled and mile after mile of expense ratings that the misroutings of your company are greater or less than these two applicants?

A. I would say they were less.

Q. On what basis do you make that statement?

A. Because I think we have got a bunch of excellent employees that knows their business.

Q. They are all under your control?

A. Not mine all directly.

Q. I mean, under the control of the Railway Express Agency?
A. They are.
Q. Would you say that you would have the same excellent set of employees, the same excellent results if in the eleven western states you had the Railway Express Agency, and if in
1653 the eastern states you had the John Doe Express Agency, and in Canada you had the Bill Smith Agency, and they are all different companies, differently owned and differently operated.
Mr. FARRENS. This question, I take it, is confined to routings?
Mr. BEROL. Routing and rating.
Mr. FARRENS. Routing and rating?
Mr. BEROL. Yes.
A. I can answer that. Prior to July 1, 1918, there were many express companies in the United States.

By Mr. BEROL:

Q. Just a moment. Are you talking of your own personal experience prior to July 1, 1918?
A. Yes, sir; because I worked for the Express Company.
Q. Go ahead.
A. I worked for Wells Fargo and we had the Adams and the Great Northern and the Northern Pacific and so on. They received shipments, transferred them to us and we received shipments and transferred them to them, and there were no more errors than there are today.
Q. Are you able to tell me as to whether there was any general improvement in efficiency of operation since all of those companies have become one than there was before?
A. I don't know. I only worked for one company. I don't know what the others were doing or how much efficiency they
1654 had, but I know that their rates and routings were wonderful.
Q. How about the general efficiency of operation? Would you say that that has been increased or decreased since the Railway Express took it over?
A. We are always trying to increase our efficiency.
Q. You will agree with me that now your efficiency has increased under the one company and that the one company is more efficient than the several companies?
A. That is a difference of opinion among the employees.
Q. What is your personal opinion?
A. I don't know. I think we had a wonderful system under the Wells Fargo.
Mr. BEROL. I think that is all.
Mr. SCHAFER. I have a few questions.

By Mr. SCHAFER:

Q. Mr. Chilson testified that in the case of a shipment moving from Port Orford to San Francisco it moved by truck from Port Orford to Coquille and then by rail from Coquille to Eugene, Oregon and then all the way back down to San Francisco. Was that correct?

A. We would receive it at Marshfield, would we not, according to my——

Q. All right, then. It was trucked to Marshfield.

A. By the trucking company.

Q. Is that truck on a connecting carrier of yours?

A. No, sir.

1655 Q. Does he accept freight at Port Orford for the Express Company?

A. No; he does not. He hauls it for the individual.

Q. You don't have any agency of any kind at Port Orford?

A. No.

Q. Or any point south of Coquille?

A. Well, I can't answer that question because I was never in that Marshfield country, so I don't know how the lay of the land is. I know we have an office at Marshfield, Coquille, Powers.

Q. You say that Mr. Chilson has to arrange his own transportation from Port Orford to Marshfield?

A. That's right.

Q. And you don't even connect with that truck line that runs down there?

A. I found out from—that shipment coming from that Port Orford district is brought in to Marshfield and placed in the ice house there and then it is reshipped out of the ice house.

Q. Is there any policy followed by the Express Company which determines how large a town must be in order to justify pick-up and delivery service?

A. No; there is not. It is where the business warrants it.

Q. Well, do you have pick-up and delivery service at a town like Weed?

1656 A. I haven't been in Weed in 25 years, so I couldn't tell you.

Q. You are practically buried in documents here that are supposed to give you and your agents all the information you need along that line. Now, tell me whether or not you have pick-up and delivery service at Weed.

A. I don't see on this application here from what I received that Weed is involved in it at all.

Q. Would you care to answer the question?

A. I told you I didn't know. I haven't been in Weed in 25 years.

Q. Supposing a shipper asked you whether or not you had pick-up and delivery service at Weed, what would you tell him?

A. I would refer to the tariff and I would tell him whether we had it or not.

Q. You haven't got any tariffs with you?

A. Not for California with me; no.

Q. Do you know whether you have pick-up and delivery service of your own at Lakeview?

A. Lakeview? Yes: I can tell you that because I have the tariff.

Q. How do you tell on this?

A. Well, get right over here. Yes, sir. Lakeview, Oregon, it has a big "D" back of it there.

Q. What does that mean?

1657 A. Delivery service.

Q. And in Lakeview you have your own truck?

A. I don't know if it is our own truck. We have delivery service. We might have a contract trucking out of it, delivering it.

Q. That is what I am trying to get at. Is there any way to tell by this which are your own employees trained in your own system and which are employees which aren't subject to your discipline?

A. Any employees that handles Railway Express business is trained in our system regardless of whether he is under contract or whether he is under commission or on a salary.

Q. And he is directly subject to your supervision, is that right?

A. That's right, or under the Agency's supervision.

Q. What does "(DCL)" mean on this Exhibit No. 15?

A. "Delivery and collection limits."

Q. What does that mean?

A. Just what it says: Delivery and collection limits.

Q. Limits of what?

A. The limits could be defined. It might be the corporate limits or it might be just certain streets in a community.

Q. How would one of your smaller agencies determine to the satisfaction of a shipper whether his shipment would be delivered at a certain address?

1658 A. We would tell him that if it was within the free pick-up and delivery limits we would deliver it, but an organization as large as ours and all the streets in the different communities and throughout the United States and Canada, there is no way possible that anybody could tell you if you walked up and asked him about "G" Street in Brown's town, whether he would deliver it or not. But we have free pick-ups and deliveries there within defined limits in every community.

Q. The answer is that the Agent couldn't tell the customer whether you would deliver it to a certain address in a certain town?

A. Not right to the address; no. He would tell you that we have free pick-up and delivery limits, and within the free pick-up and delivery limits, why, we deliver.

Q. Do you have connecting lines or truck lines that connect with you that give service to points off the rails at all?

A. Yes.

Q. In those cases suppose the truck driver makes a mistake, do you have any disciplinary power to discharge him?

A. We can't discharge any employee in the Express Company without cause.

Q. Would you consider repeated errors in routing cause for you to discharge your employee?

A. Why, yes. We would make a change.

Q. But you couldn't make a change with respect to the
1659 employee of any other company than the Railway Express Agency, could you?

A. No; but we could change the carrier.

Q. That is what I am getting at now. Supposing there was only the one carrier and in the absence of such discipline would you abandon the territory?

A. Well, no; we wouldn't do anything like that. We would take it up with the owner of the carrier or the truck route and show him the error of this employee and so forth, and have it corrected.

Q. It has been shown here that Oregon-Cal. is the only motor carrier operating between San Francisco and Klamath Falls in the transportation of general commodities. Now, if Consolidated doesn't like the way the Oregon-Cal. handles routings and has no power to discharge any of Oregon-Cal.'s employees, then you recommend that they abandon the service?

A. No; I wouldn't recommend. I will tell you: We have lots of carriers, truck carriers that handle Railway Express Agency business and I never have no trouble with them. They always work in cooperation with me.

Q. If your smaller, untrained agencies make a mistake you have an agent right on the baggage car who can correct that without any disadvantage to the shippers or the public at all, haven't you?

A. Yes; we have a messenger on the train.

1660 Q. And you realize that the trucks don't have messengers in the trucks as they roll along the road, and they haven't that advantage.

A. They have a driver.

Q. Do you know that the practices of the Railway Express Agency, which have been developed over a period of perhaps a hundred years to meet the needs of Railway Express Business, would exactly meet the needs of a younger and different transportation system?

A. Yes. I think that certain parts of the handling of express could be used to a great advantage by any truckling route.

Q. That wasn't an answer to the question. I asked you if you knew that the needs——

Will you read my question, please, Mr. Reporter?

(The question referred to was read by the reporter.)

A. I don't see why it wouldn't.

By Mr. SCHAFER:

Q. The question was, Do you know that your methods which have been built up to meet your needs will fit our needs?

A. I think it would.

Q. I didn't ask you what you thought. I asked you if you know.

A. Well, we operate truck routes, the Railway Express Agency, and those needs are used in our truck routes.

Mr. SCHAFER. At the risk of boring everyone I am going
1661 to stick with my point and require that the witness answer my question.

The WITNESS. I can't answer it any different because I don't know what you mean, anything else than what I have answered.

By Mr. SCHAFER:

Q. I asked you, Do you know from your experience that the systems which you have evolved over a period of a hundred years to suit your business will exactly meet the needs of our business?

A. Well, I don't know what your business is.

Q. That's enough of an answer for me.

A. But if it is a trucking business, which we have trucks of our own, I should think it would meet it.

Q. You should think it would. You still don't say whether you know or not.

A. I know from handling truck routes that it ought to meet it. How will that do?

Q. If you are determined not to answer the question I will abandon the point.

Mr. IVERS. I think the question was answered.

Mr. FARRENS. I think the question was answered, but not to counsel's satisfaction.

Mr. SCHAFER. Let us read the answer, and I will say.

Chairman TERRIL. Let's don't argue the question any further.

1662 By Mr. SCHAFER:

Q. Do you know whether a motor carrier in Oregon can take a shipment from your company and transport it over his line without rebilling and without remanifesting and still comply with all the requirements of keeping his records?

A. I don't know anything about the laws of Oregon.

Q. You don't know whether he could or not?

A. I don't know whether he could or not.

Q. How many copies of the billing does he get when you turn over a shipment to him?

A. The billing—the delivery sheet is attached to the shipment.

Q. And that goes to the customer?

A. No; the customer signs that.

Q. And the carrier must return that to you?

A. That's right.

Q. And what has he left for his own records if he hasn't rebilled the shipment and remanifested it?

A. He might have manifested it, but he don't have any record outside of taking a copy of the delivery sheet.

Mr. SCHAFER. That is all.

Redirect examination by Mr. FARRENS:

Q. Mr. Elliott, turning back to your Exhibit No. 15 and referring again to this town of Acme, the first town listed on the

1663 first page, I notice that it has the letter "(D)" after it. Does that mean that you have pick-up and delivery service at Acme?

A. Yes. I don't know why the "CL" was left off that.

Q. Where it says underneath that, "(Waybill to Cushman, Ore.)," does that constitute the instructions to the receiving agent at point of origin?

A. The forwarding agent, when he would have a shipment for Acme, Oregon, with waybill to Cushman, Oregon, the Cushman, Oregon must be the office that settles Acme business. Maybe I can get back a little closer to that to what we have right here in Oakland. Alameda is a separate municipality. Oakland handles all of the accounting for Alameda, all the delivery. In other words, a shipment going to Alameda must be put off at 16th Street, Oakland, and our trucks operate right out from 16th Street and deliver to all of Alameda, and the settlements are all made in the Oakland Agency. And that's what I think that is the reason why that is done.

Q. What are your agents trained to do when a shipper offers a shipment to some point which is shown by your documents, like 15 and 16 not to be on the line or not to be an agency point of your company? What do they do about that?

A. If you come in and offer a shipment to the Railway Express Agency employee and he had no office there, he would tell you that he has no office at that point, but he would waybill it to a certain—to the nearest point to that destination
1664 and he would tell you that.

Q. He would explain in advance?

A. He would explain in advance before he received it, for the reason why in most places the office might be 50, 75, a hundred miles, and they wouldn't tender it to the Railway Express Agency, and there is a post office there and they would take it to the post office. So he would not put the shipper or the consignee to any disadvantage.

Q. Do you know whether or not an employee of Consolidated Freightways receiving a shipment at Portland destined to Minneapolis could tell whether it was within the pick-up and delivery limits of Consolidated, if he was simply told it was to go to XYZ Street at Minneapolis?

A. No; I don't think he could or any other carrier.

Chairman TERRIL. The question is, do you know?

Re-cross-examination by Mr. SCHAFER:

Q. You have been with the Express Company how long?

A. 32 years past.

Q. And it is your contention that all of your employees should know what these symbols mean?

A. Yes.

Q. And you told me that "DCL" means "Delivery collection limits"?

A. Yes.

1665 Q. Now, all your employees as well as yourself ought to know that?

A. Yes.

Q. Now, you wouldn't allow an outsider like myself to suggest that that means "Delivery city limits"?

A. No; it wouldn't.

Q. Are you certain of that point?

A. Pretty positive. That doesn't mean "City limits" because we have another tariff that shows the collection delivery limits for all east towns.

Q. I see. You are pretty sure or are you absolutely sure?

A. I am pretty positive, because we have another tariff. Now, we will take, for instance, here. You take some towns. We have the corporate limits of a town, other towns we haven't.

Q. Most of your employees have been with the company a great period of time, isn't that true? You have a very low labor turnover?

A. Very little.

Q. And as a general rule won't you admit that your employees have been trained over a longer period of time than truck companies?

A. Well, no; not necessarily. We have young employees; two, three, four years in the service.

Q. Do you have any commission agencies, people whose principal business is not the handling of your business but who
1666 handle your business merely as a side line?

A. Lots of them.

Q. And you don't exact of them the same requirements as to training that you do of your own salaried employees, do you?

A. We tell them. We instruct them. They make an error and we call attention to their error.

Q. Now, you say that you don't know why the "CL" was left off after the "D" in the case of Acme. You have been with them 32 years. How do you expect the rest of your agents to know why the "CL" was left off of that point?

A. I don't know why. I couldn't answer that.

Mr. SCHAFER. That will be all.

Chairman TERRIL. That is all.

(Witness excused.)

Mr. ELLIS. Mr. Hayes.

1686 Chairman TERRIL. We will start at nine o'clock in the morning, gentlemen.

(Whereupon, at 5:20 o'clock p. m. an adjournment was taken until October 17, 1940, at 9:00 o'clock a. m.)

1687 Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC–8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA,
October 17, 1940, 10:05 A. M.

Before Joint Board No. 5: C. T. Terril, Chairman; Warren K. Brown, Joseph Starin, H. L. Hanback, Examiner.

Hearing resumed.

1688 Appearances: Same as heretofore noted.

PROCEEDINGS

Exam. HANBACK. Let us proceed, gentlemen.

1783 Mr. MACLEOD. Does the Board desire that I be sworn? I simply want to point out an inaccuracy in an exhibit that has been offered.

Chairman TERRIL. Do you have an appearance on file?

Mr. MACLEOD. Yes; I have.

Mr. BEROL. I will accept his statement without being sworn. Mr. MacLeod is a lawyer.

Mr. MACLEOD. There was an exhibit introduced earlier in the proceeding, Exhibit 11 introduced by Beach White I believe, on behalf of Pacific Southwest Railroad Association.

Page 5 of that exhibit makes reference to certain operative rights issued by this Commission to my client, Transcontinental Contract Carriers. There is an inaccuracy in the two items at the bottom of page 5 in that there is an asterisk shown before the two docket numbers 86974 and 100908, the asterisk designating that the rights are not necessarily final. These rights have been final for over a year in each instance, or approximately a year, so the asterisk should not be shown.

In order to make the document complete, an additional item should be added.

Exam. HANBACK. I think if he is going to testify here he should be under oath, unless all parties will stipulate that they will accept this testimony.

1784 Mr. IVERS. I think all counsel will stipulate.

Mr. MACLEOD. It is simply factual as to the matter in the files of the Commission.

Exam. HANBACK. We want it for this record.

Mr. MACLEOD. I have no objection to being sworn.

Chairman TERRIL. You might as well.

the Colletti Transportation System, the line operated by his brother?

A. That is true.

Q. Will you describe the vehicles further? Do you have
1835 anything further to state in connection with the vehicles?

A. Yes. As I mentioned, the vehicle is especially built for the operation between Los Angeles and Seattle, Washington, and intermediate points, as well as San Francisco and Oregon and Washington points because the particular operation calls for refrigerated—the movement of refrigerated merchandise. All bodies are insulated with the very latest type of insulation and the refrigerant used at the present time is dry ice.

Q. Have you found that satisfactory?

A. Very satisfactory; and when not so, or whenever claims would arise, it was because of insufficient use of dry ice, although we are planning today, as a matter of an experiment at least, one unit for mechanical refrigeration to determine whether we can do as well with it and at a little less cost than we are operating today with the use of dry ice.

Q. Now, is there any particular reason for the use of dry ice in the operation at the present time and over the past two years, for instance?

A. Yes; one of the main reasons is that it is not necessary; if we should have to haul a considerable amount of general commodities along with a small portion of frozen commodities it is not necessary to purchase any great amount of dry ice since we can refrigerate a portion of any of the units whether it be the truck body or the trailer body, whereas with mechanical refrigeration we are
1836 handicapped with the weight of at least a thousand pounds for the mechanical unit which must be hauled both ways, and because of Oregon's weight limits we suffer the loss of revenue on a half of ton of weight both ways, whereas with the use of dry ice we only suffer the loss of half a ton south-bound.

Q. Now, with respect to the use of dry ice, will you state whether or not the preponderance of refrigerated movements is south-bound?

A. Yes; it is.

Q. About what proportion of the total freight that moves north-bound would require refrigeration?

A. Not even one percent of the merchandise moving north-bound requires the use of dry ice.

Q. And what is the situation with respect to south-bound movements?

A. I would say 65 percent of the south-bound movement consists of frozen berries, frozen vegetables, frozen eggs and meats, frozen fish.

Q. Do the trucks that are in operation by Colletti Fast Freight at the present time have sleeper cabs?

A. They do, a sleeper cab in the equipment in the front end of the truck body.

Q. Now, I noticed on Exhibit 28 that there are some units as old as 1928, namely, a Reo, number 5.

A. (Examining document.) Right.

1837 Q. Is that a pick-up truck?

A. That is a pick-up truck used at our Los Angeles Terminal.

Q. I notice a 1938 Kenworth truck. Will you state whether or not that has recently been rebuilt?

A. Yes; it has; in fact, the rebuilding is not complete; it is under the process of being rebuilt.

Q. Now, do I understand that with the exception of the Reo tractor unit number 1 and unit number 2T, the 1937 Fruehauf semitrailer, that all of your units are cab over engine, all of your line-haul units, that is, are cab-over-engine jobs recently constructed especially for this Pacific northwest run?

A. That is right.

Q. And you are contemplating the purchase of two additional units for delivery on the first of this coming year?

A. Yes; the order has not yet been placed due to the fact that our application under the grandfather right as well as our BMC–8 application for the extension of service has not yet been definitely acted upon by the Commission.

Q. Well, even if it is not definitely acted upon before the first of the year, does the company have immediate plans for the ordering of that equipment notwithstanding?

A. They do, sir.

Q. Now, in addition to those two line-haul units, are you contemplating the purchase of these two stand-by and over-

1838 load units that you were speaking of?

A. Yes; we are, as a matter of protection of service to shippers.

Q. Now, what type of commodities does Colletti Fast Freight handle?

A. General commodities between Los Angeles and Seattle, Washington, and points intermediate on and off Highway 99 in the States of Oregon and Washington and also in California; general commodities between Los Angeles and between San Francisco and Oregon and Washington.

Q. Are there any exceptions to the type of commodities that you transport?

A. Only such commodities that cannot be handled in the type

of equipment that I mentioned such as livestock or petroleum products that take the use of gas trucks or tank trucks.

Q. How about explosives?

A. Explosives also.

Q. How frequently does Colletti Fast Freight operate between Los Angeles and Seattle and intermediate points?

A. Daily, sir, including Sundays in many cases.

Q. Will you state whether or not you operate on regular schedules?

A. Our schedules are regular to the extent that we leave the terminal at stated times, or at least within a radius of a period of two hours, between seven and nine o'clock at night normally out of Los Angeles and the same time out of Seattle.

1839 Q. Do you have filed with any regulatory bodies any time schedules that you adhere to?

A. No; we do not, sir.

Q. What is your departure time from Los Angeles on the northbound run?

A. As quickly as possible for the loading to be done on our line-haul equipment after the pick-ups are made and that is normally about 7:00 or 7:30; sometimes, of course, it will be 8:00 or 8:30 or 9:00 o'clock. That is why I say between 7:00 and 9:00 is the normal departure times.

Q. And what is your normal arrival time at Seattle?

A. Between 7:00 and 9:00 o'clock, second night, approximately 48 hours.

Q. You afford third morning delivery at Seattle from Los Angeles?

A. Yes; we do.

Q. What is the situation south-bound between the extreme termini?

A. Los Angeles south-bound; since we do not stop as often for unloading at intermediate points, we can effect second-afternoon delivery in Los Angeles with a great deal more regularity than we do going north-bound.

Q. Do you ever effect second-afternoon delivery at Seattle from Los Angeles?

1840 A. Yes; we do.

Q. About how frequently?

A. I would say about one-third of the time.

Q. And what is the distance, if you know, between Los Angeles and Seattle?

A. 1,227 miles.

Q. What is your arrival time at San Francisco when you depart from Los Angeles at about 7:30?

A. About 7:30 of the next morning, about 12 hours, but our

normal operation north-bound on the handling of tonnage out of San Francisco for Oregon and Washington is via connecting carriers from San Francisco. The connecting carrier will bring it either to Fresno on Highway 99 or to Modesto, and our truck leaving Los Angeles between 7:00 and 9:00 arrives in Fresno about eight hours after leaving the Los Angeles terminal to pick up this freight and move it and deliver it in Seattle on the third morning.

Q. And what delivery are you able to effect at Portland, Oregon, for instance, from San Francisco through the use of your connecting carriers out of San Francisco?

A. Second-afternoon delivery, sir.

Q. That is second afternoon out of Los Angeles or out of San Francisco?

A. Both.

Q. The speed is the same on the two?

1841 A. Yes; when we use connecting carriers because of the—again I should say also that in one-third of the times we also deliver in Portland on the second morning, but our normal operation is second-afternoon delivery.

Q. From Los Angeles and from San Francisco?

A. That is right, sir.

Q. Now, with respect to movements south-bound from Seattle to Portland, what delivery are you able to effect at San Francisco?

A. When operating into San Francisco directly from Seattle with our own line-haul equipment, we are able to deliver on arrival in San Francisco about six o'clock the second morning.

Q. Is that from Seattle?

A. From Seattle.

Q. And what is the situation from Portland?

A. Well, the Portland schedule depends on our departure from Seattle which is normally between 7:00 and 9:00 o'clock, and if we operate south-bound from Seattle into San Francisco via the connecting carriers at Modesto, the delivery is also effected on the second morning. We meet their trucks at Modesto at 3:20 in the morning of the second morning.

Q. Is Colletti Fast Freight offering direct service to San Francisco at the present time from Portland?

A. We are offering it, but we have limited ourselves for a direct operation to 5,000 pounds before we will run into San

1842 Francisco directly; unless in case of emergency or request of the shipper, we will give them direct delivery.

Q. Now, are there any restrictions on the operator rights of Colletti Fast Freight at the present time, restricting operations to 5,000 pounds or more?

A. No, sir; there are not.

Q. What is the reason for restricting the service at this time to movements for direct delivery to San Francisco from Portland or Seattle to 5,000 pounds or more in most cases?

A. The main reason is that we do not wish to expand our operation into the San Francisco territory any greater than it is today because there has been no action taken on the grandfather application of Colletti Fast Freight and on our BMC–8 application we ask only service into San Francisco on 5,000 pounds, so we do not wish to build up a service that might be curtailed when the orders do come through from the Commission.

Q. As I understand you, then, the curtailment as of the present time is wholly voluntary due to the fact that the Commission has not acted definitely either on your grandfather application or your extension application?

A. That is true, sir.

Mr. BEROL. You don't mean "definitely," do you, counsel? You mean "finally." I thought they had acted pretty definitely.

Mr. GLANZ. Well, finally, then, Mr. Berol.

By Mr. GLANZ:

Q. Does the company operate the way you have
1843 testified in both directions; that is, on a general commodity service on more or less of a regular schedule?

A. Yes, sir; they do, sir.

Q. Now, have you checked the records of Colletti Fast Freight to determine the amount of tonnage it handles in different periods into and out of different specific territories on your route?

A. I have, sir.

Q. What did you find, for instance, was the total tonnage handled from June of 1938—which was the time, as I understand it, when Mr. Colletti acquired this operation—to July of 1939; that is, the total tonnage?

A. The total tonnage was——

Mr. BEROL. Just a minute. Objected to as being incompetent, irrelevant, and immaterial, too remote in point of time. It has been over a year ago, in some instances two years ago, that this computation has been made. Now, certainly in view of the witness contemplating his testimony here today he could have obtained records that were more——

Mr. GLANZ. It is only preliminary. I have the records down to October 1, Mike. I will give them to you as quickly as I can get at them.

Mr. BEROL. Objection withdrawn.

Chairman TERRIL. Thank you, Mr. Berol.

The WITNESS. The total tonnage from June 1938, to
1844 July 1, 1939, as shown by the records of the Colletti Fast Freight, is 5,385,036 pounds.

By Mr. GLANZ:

Q. And what was the amount of freight handled to or from the Bay area during that same period?

A. It was 161,667 pounds.

Q. And what do you mean when you say "Bay area"?

A. We include in the Bay area, San Francisco, Oakland, Stockton, San Jose, Alameda, Albany, Berkeley, El Cerrito, Emeryville, Richmond, Sacramento, San Leandro, and Stege.

Mr. BEROL. May I interrupt at this point, counsel?—Did I understand you included Sacramento and Stockton?

The WITNESS. Yes, sir; I did.

By Mr. GLANZ:

Q. And what was the tonnage handled into and out of the Bay area as you have described it during the period from July 1, 1939, to July 1, 1940?

A. That was 758,508 pounds.

Q. And what was the total tonnage of Colletti Fast Freight during the period from July 1, 1939, to July 1, 1940?

A. That was 11,282,257 pounds.

Q. And in July of 1940, the month of July, in and out of the Bay area, how much tonnage did you handle for that one month alone?

A. Into the Bay area we handled 134,435 pounds.

Q. What was the total tonnage handled by Colletti Fast Freight for the month of July 1940?

1845 A. It was 1,301,427 pounds.

Q. Now, will you give us similar figures for the months of August and September?

A. Yes; in August 1940, in and out of the Bay area we handled 67,908 pounds. The total tonnage for the month of August was 1,326,206 pounds, and for September, 1940 in and out of the Bay area it was 79,026 pounds, and for September the total tonnage was 1,501,465 pounds.

Q. What was the total tonnage handled? What has been the total tonnage handled by Colletti Fast Freight from June, 1938, to October 1, 1940?

A. The total tonnage between that period was 20,796,391 pounds. The total tonnage out of the Bay area during that same period was 1,201,544 pounds.

Q. Now, I believe you stated you served certain points in Oregon and Washington intermediate between San Francisco and Seattle on U. S. Highway 99 E. and W. Will you name those, please?

A. The points in Oregon and Washington?

Q. Yes; on the north-bound movement.

A. Such as Medford, Roseberg, Eugene, Salem, Portland—I am

CLAIR W. MACLEOD was sworn and testified as follows:

Chairman TERRIL. The oath may be taken as covering the previous statement that was made in this matter.

The WITNESS. Yes.

DIRECT EXAMINATION

The WITNESS. In addition to the inaccuracies regarding the asterisk which should not be shown in the two items referred to, the document, in order to be complete, should show the addition of Docket Number 100908, Sub. 1, and in the left column the name "Transcontinental Contract Carriers, Commodities General," and in the righthand column, "Common Carrier Regular Route from North Bend, Oregon, to Oakland, California, Intermediate Points Oregon for Pick-up, San Francisco Bay Points for delivery."

That docket number should be preceded by an asterisk inasmuch as the order is that of a Joint Board, which was issued September 6, 1940, and has not become final, although exceptions have not been filed to date.

1785 In addition to that, Docket No. 10098, Sub. 2, Commodities General, South-bound from North Bend, Oregon, to San Francisco Bay points is pending and undisposed of.

That completes my statement with respect to the exhibit.

Chairman TERRIL. Any questions of counsel?

Mr. FARRENS. None at all. I simply want to say with respect to counsel's testimony that this exhibit was not offered as the best evidence on the subject, but was offered in order that ready reference might be made by the Board and Division 5 to the proceedings indicated on the left-hand column.

Mr. MACLEOD. Yes; Mr. Farrens, that was my only purpose in adding to the ready references the subsequent docket numbers which were not shown thereon.

Thank you.

(Witness excused.)

Chairman TERRIL. We will stand adjourned until 2:00 o'clock.

(Whereupon, at 12:30 p. m. hearing adjourned until 2:00 p. m.)

1786 AFTERNOON SESSION—2:00 P. M.

Chairman TERRIL. Are you ready to proceed, gentlemen?

Mr. FARRENS. Ready to proceed.

E. H. LINDSEY having been previously sworn, resumed the stand and testified further as follows:

Mr. FARRENS. If the Board please, on the question of Exhibit 19, I think I omitted to suggest to the Board the ruling that I think would be appropriate. Let me pause to say no objection

has been made to the first page of the exhibit, that is the letter from the County Court, and unquestionably since that was an original letter given to Mr. Lindsey to present to the Board, it is not surprising that no objection has been made to it, but as to the second page, I want to suggest to the Board that the proper ruling is that the resolution will not be admitted.

Chairman TERRIL. Just a moment.

Mr. FARRENS. I am suggesting to the Board that the proper ruling to make with respect to Exhibit 19 is that page one is admissible for the purpose for which it is presented and that page two of Exhibit 19 should not be admitted for the purpose of proving any fact alleged to be a fact in the body of the resolution, but that it should be admitted solely for the purpose for which it is offered, namely, to tie in with the sentence in the letter
1787 which says that Mr. Lindsey is authorized to represent the Coos County Court in reference to the attached resolution, that is, in other words, merely to explain that reference in the letter. That is the sole ground, I think, upon which this resolution is admissible.

The second page is admissible not for the purpose of proving any allegation of fact contained in the resolution. That would mean that on argument or briefing no protestant, including myself, could lay any claim that any statement of fact in the resolution was proved by the resolution.

Mr. BEROL. If the Examiner please, my position remains unchanged. There isn't anything that Mr. Farrens has said that makes an inadmissible document admissible. Now, that is what he is attempting to do. Now he is seeking another reason why it might be admissible just because this witness came to town and has a letter, and if the letter itself isn't of any evidentiary value, then, I take it that merely because attached to the letter is something that might have evidentiary value but is inadmissible for any evidentiary purpose, then, the first document, being the letter, should go in.

Now, if this witness came here to testify, he came here on his own responsibility. Why are we to take the position that because a witness travels some number of miles to offer testimony that he shall be rewarded for his efforts by enabling him to put into
1788 the record some document which counsel admits cannot be included for any purpose except that.

Now, we have already had three or four theories under which this resolution has been attempted to be gotten into the record. Counsel virtually concedes that the objections that I have made to the introduction of the resolution into the record are sound, and now he says it is only explanatory of what is in the letter. Well, what is in the letter? There isn't anything in the let-

ter that can have any bearing upon this issue. The only thing that can have any bearing upon this issue is not the letter but the resolution, and that is what counsel is attempting to get into the record, and I say that no proper foundation has been laid for offering this resolution into the record.

This offer would be hearsay of the rankest kind.

Mr. SCHAFER. In addition to that, I will renew my additional objection; if it is offered to prove nothing, it is incompetent, irrelevant, and immaterial.

Mr. FARRENS. I still think I have the right to close the debate, which I will do briefly.

Mr. BEROL. For the fourth time.

Mr. FARRENS. To say I have not shifted my position. It has been identically that which I explained from the beginning, to call the Board's attention to the fact that it is a cardinal rule
1789 of evidence that a document may be inadmissible for one purpose, but admissible for another. I say to the Board, if you are to accept the letter and rule out the resolution that then you would not know from the letter what authority this witness had to testify with respect to what subjects. It might be horse stealing, as Mr. Berol has suggested.

Let me add finally: That this witness has given his own testimony for himself as to the reasons why it is contrary to the public interests to have these large for-hire trucks operating on the coast highways. It is solely upon that that I intend to rely for proof as far as any evidence offered by or through this witness is concerned.

There is no question about his competence to testify on that subject. The only question that this relates to is who he is here representing.

Chairman TERRIL. The Board will rule in this matter that the exhibits will be accepted for the purposes that counsel has stated and for no other, subject to the strict interpretation that they are to be used in cross-examination or in brief for those purposes only.

Mr. FARRENS. That is right.

Mr. BEROL. The record will show an exception.

Chairman TERRIL. And the record may show an exception.

Mr. BEROL. Now, may I have read for my guidance in connection with the cross-examination, the statement of counsel as
1790 to the purpose for which these exhibits are being offered so that I may have that statement fresh in my mind?

Chairman TERRIL. You may. Will you read it, please?

(The statement referred to was read by the Reporter as follows:

"Mr. Farrens: I am suggesting to the Board that the proper ruling to make with respect to Exhibit 19 is that page one is ad-

missible for the purpose for which it is presented and that page two of Exhibit 19 should not be admitted for the purpose of proving any fact alleged to be a fact in the body of the resolution, but that it should be admitted solely for the purpose for which it is offered, namely, to tie in with the sentence in the letter which says that Mr. Lindsey is authorized to represent the Coos County Court in reference to the attached resolution, that is, in other words, merely to explain that reference in the letter. That is the sole ground, I think, upon which this resolution is admissible.

"The second page is admissible not for the purpose of proving any allegation of fact contained in the resolution. That would mean that on argument or briefing no protestant, including myself, could lay any claim that any statement of fact in the resolution was proved by the resolution."

Mr. BEROL. Well, I understand the Board's ruling. I am not going to argue against it.

1791 May I be permitted, for the purpose of the record, to make one observation in connection with counsel's statement that has just been read to me?

Chairman TERRIL. You may.

Mr. BEROL. That is on page two of Exhibit 19, being the resolution itself. There isn't a single paragraph, a single sentence, a single word, or a single syllable that in any way ties it in with the witness, Mr. Lindsey, insofar as his representation of that particular body is concerned.

Chairman TERRIL. You may proceed, Mr. Farrens.

Mr. FARRENS. Now, if the Board please, I offered Exhibit No. 19 instead of offering Exhibit 19 to 27 inclusive, because of the fact that by so doing the argument could be centered around one precise exhibit.

I now offer Exhibits 20 to 27 inclusive, limited in precisely the same fashion and to the same extent, and the offer is made for the same single purpose as in connection with Exhibit 19.

Mr. BEROL. To which I object upon the same grounds offered in connection with the objections to Exhibit 19.

Mr. SCHAFER. I will object further on the grounds a great number of these letters accompanying these resolutions constitute written hearsay. I refer specifically to Exhibit No. 27 which starts out, "We have had correspondence with you concerning the application of the Consolidated Freight Lines, Inc. * * *"

1792 and it indicates further that the Gold Beach Chamber of Commerce bases its opposition upon a belief that Consolidated is going to try to hold them up on a freight rate and such things as that. The declarent is not present to be cross-examined. I am unable to find out who gave such a grossly false impression to that body and it is obviously from that statement that its opposi-

tion is based upon a false statement. Yet I have to be confronted with a letter like that.

Mr. FARRENS. May I inquire from counsel for Consolidated if it isn't a fact that the freight rates which were tendered Gold Beach from San Francisco are based upon the freight rate from San Francisco to some point north of Gold Beach plus the local rate back to Gold Beach?

Mr. SCHAFER. Well, I will not say that I now know the source of that statement, and I will state further as a counsel in the case that I have information from the Gold Beach Chamber of Commerce that they were informed by the Clackamas County—no, not Clackamas—what was the other county—Clatsop County Court. The Clatsop County Court informed the Gold Beach Chamber of Commerce that the rates to be applied to Gold Beach if this application were granted would be based on Coquille, plus the local rate back to Gold Beach, obviously false, as anyone knows who has attended these hearings, and yet that was the impression which obtained the support of this body, and I am glad to hear
1793 counsel ask that question because I have suspected the source of this information that has been going up and down the coast for some time.

Chairman TERRIL. I do not want counsel for either of the applicants to understand that they are foreclosed from any particular objection that they may have to any one of these other exhibits which have not yet been received in evidence in this matter by the ruling that was made on Exhibit 19. If there is anything that is particularly objectionable to them, that doesn't apply to 19, why, the Board is willing to hear them.

Mr. FARRENS. I would like to inquire whether counsel for Consolidated is making a particular objection to Exhibit 27?

Mr. SCHAFER. No; I think I want to cross-examine on it. I will just withdraw that objection on that particular one and let my objection stand as——

Mr. FARRENS. I was going to say to the Board that I believe that if the particular objection was insisted upon I would have to admit that it was sound, but if counsel wants to withdraw it, why, that is a different question.

Chairman TERRIL. I simply want it understood that the Board is not foreclosing anyone from their rights prior to a ruling of these exhibits that are now offered.

Mr. BEROL. Well, I might state that I am not going to do other than offer the objections that I have made heretofore.
1794 I don't believe in consuming time, and if Exhibit 19 is admissible, I don't see anything about the other exhibits to make them inadmissible.

Chairman TERRIL. Very well. Then, the ruling will be that

Exhibits 20 to 27 inclusive will be received in evidence with the limitations that were stated in connection with Exhibit No. 19, and they will be so marked by the Reporter.

The record may show, if it does not, that Exhibit 19 was received in evidence.

(Exhibits 20 to 27 inclusive, Witness Lindsey, received in evidence.)

Mr. BEROL. The record will please reserve an exception as to the ruling with respect to the admissibility of each and every one of these exhibits.

Chairman TERRIL. And the exception of counsel for both applicants will be noted in this matter.

Mr. FARRENS. I have concluded the direct examination.

Chairman TERRIL. Cross-examine, gentlemen.

1829 Mr. GLANZ. May I ask to produce a witness who will take only about 15 or 20 minutes? He would like to get back south.

1830 Chairman TERRIL. Are you sincere in your limitations as to time?

Mr. GLANZ. I think I am.

Chairman TERRIL. We will have a short recess and immediately after the recess you may present your witness.

(Thereupon a short recess was taken, after which proceedings were resumed as follows:)

Chairman TERRIL. Let's proceed, gentlemen.

Mr. GLANZ. Will you be sworn?

JOHN HESSELBROCK was sworn and testified as follows:

Direct examination by Mr. GLANZ:

Q. Will you please state your name, residence, and occupation?

A. John Hesselbrock—H-e-s-s-e-l-b-r-o-c-k.

Q. Where do you reside, Mr. Hesselbrock?

A. 9207 Third Avenue, Inglewood, California.

Q. And what is your occupation?

A. General Manager of the Colletti Fast Freight.

Q. How long have you held that position?

A. Since about April of 1940.

Q. And where were you employed prior to that time?

A. Prior to March 1st I was employed by the Los Angeles-Seattle Motor Express.

Q. Have you had any previous experience in the business
1831 of transporting property between California points and Oregon and Washington points?

A. Yes; continuously since December of 1935.

Q. Who is the owner of Colletti Fast Freight?

A. A. Colletti, or Angelo Colletti, d. b. a. Colletti Fast Freight.

Q. That is a sole proprietorship?

A. That is right.

Q. In what territory does the Colletti Fast Freight operate?

A. It operates from points in California to points in Oregon and Washington, to Seattle.

Q. And what route does it traverse?

A. Highway 99, both E and W in California and in Oregon.

Q. Do you serve various points along that route?

A. Yes. On our north-bound operation we serve various intermediate points and off-route points in Oregon and Washington along this same 99 highway.

Chairman TERRIL. What are your extreme termini, Mr. Hasselbrock?

The WITNESS. Los Angeles and Seattle; Los Angeles, California and Seattle, Washington.

Chairman TERRIL. Excuse me.

By Mr. GLANZ:

Q. Do you interchange freight with other carriers at points along your route?

A. Yes; we do.

1832 Q. With approximately how many carriers do you interchange freight?

A. I would say about 40.

Q. And what are your principle interchange points?

A. North-bound: Medford, Roseberg, Eugene, Portland, Chehallis, Olympia, Tacoma, and Seattle.

Q. And south-bound?

A. South-bound points in California, Modesto and Fresno, and San Francisco.

Q. And through these interchanges, do you provide a service on through rates or combination rates to various other points not on your routes in the States of California, Oregon, and Washington?

A. Yes; and including the States of—certain points in the State of Idaho.

Q. How many vehicles does Colletti Fast Freight operate at the present time?

A. Line-haul equipment? We operate five truck and trailers that are company-owned, and one tractor and semi-trailer, company-owned, and two trucks and trailers that are leased.

Q. And do you have any pick-up trucks?

A. Yes; we operate three pick-up trucks, company-owned, at Los Angeles and one at Seattle.

Q. Are there any plans in existence at the present time for the acquisition of additional equipment?

1833 A. Yes; we are planning to place an order with the Kenworth Motor Truck Company of Seattle for two more Kenworth Motor Trucks to be filled approximately the first of the year, as well as two more trucks to be built for use as pick-up trucks, one at Los Angeles and one at Seattle in case of emergency when line-haul equipment that is now operating cannot be used for the service. These particular trucks can be used in their place; they will be properly licensed for the states they are going to travel through.

Q. Have you prepared an exhibit showing the vehicles presently owned by Colletti Fast Freight?

A. I have.

Q. I show you a document which purports to be such a statement, and ask you if that is the one you prepared.

A. (Examining document.) That is a copy of it, sir; yes, sir.

Q. And does that correctly portray the vehicles now in operation and owned by Colletti Fast Freight?

A. That is correct.

Q. Are the leased vehicle shown thereon?

A. No, sir; they are not.

Mr. GLANZ. I will offer the exhibit just referred to by the witness as next in order in this proceeding.

Chairman TERRIL. Any objection?

(No response.)

1834 Hearing none, it will be received in evidence and marked as "number 28" in this matter.

(Exhibit No. 28, Witness Hesselbrock, received in evidence.)

By Mr. GLANZ:

Q. Now, I wish you would describe first the line-haul equipment that is operated by Colletti Fast Freight.

A. The line-haul equipment is especially built to the specifications of Mr. Colletti for the operation from Los Angeles to Seattle. It represents a cab-over-engine Kenworth Truck with Cummins Diesel motor and four-wheel drive.

Q. And how about the braking facilities?

A. Air brakes on all wheels, both truck and trailer. The length of the equipment is, of course, according to Oregon law, 50 foot over-all.

Q. Is that the reason for the use of the cab over engine?

A. That is true, to give us all available loading space for freight.

Q. Incidentally, was Mr. Colletti connected with the transportation business before he acquired the Colletti Fast Freight?

A. Yes, sir; he was for quite some number of years.

Q. Was that in the capacity of Superintendent of Equipment for

chanically refrigerated equipment that cannot be done with the use of dry ice?

A. It can be done, sir; but we have not been in the habit of precooling.

Q. And that is something that the brokers in the handling of this so-called cold pack and frozen fruits and vegetables are interested in obtaining?

A. One broker that we know of and that we are going to make an experiment for to prove it to ourselves.

1861 Q. Now, I believe it is your testimony that you normally don't operate your own equipment to San Francisco unless you have at least 5,000 pounds?

A. Normally that is true, sir.

Q. Now, do you maintain any office in San Francisco?

A. No, sir; we do not.

Q. Do you maintain any pick-up and delivery equipment here?

A. Only through the connecting carriers.

Q. I mean of your own?

A. No, sir; we do not.

Q. Do you maintain any terminal of any type whatsoever here?

A. Only the A. B. C. Transfer as an agent.

Q. As an agent?

A. Yes, sir.

Q. Do you maintain your own solicitor here?

A. No, sir; we do not.

Q. That has been true throughout your recent experience?

A. Yes, sir.

Q. Now, who is your connecting carrier between San Francisco and Modesto?

A. The Diamond Freight Lines.

Q. And between San Francisco and Fresno?

A. The Independent Freight Lines.

Q. Modesto is approximately 80 miles south of San Francisco?

A. I suppose you are right, sir; I couldn't say exactly.

1862 Q. And Fresno is approximately 180 miles south of San Francisco?

A. I believe so, sir.

Q. Now, let's follow a shipment. Suppose today a shipper gave your local agent, the A. B. C. Transfer Company, a 200-pound shipment and you did not have your own piece of equipment coming in today, how would that 200-pound shipment be handled?

A. Via either the Diamond Freight Lines or the Independent Freight Lines.

Mr. GLANZ. May I ask: Is this shipment moving up from Los Angeles?

Mr. BEROL. No; it is moving from San Francisco to Portland, Oregon.

By Mr. BEROL:

Q. So I take it that in handling such a shipment that it will move either 180 miles south of San Francisco and then will be picked up by you and moved north?

A. Right, sir.

Q. Let me ask you as an experienced transportation man how you feel a service of that kind compares with a direct service from San Francisco to Portland.

A. Well, as I stated, I can't tell what type of service is being planned from San Francisco to Portland. I don't know the time that will be——

Q. Well, let me tell you that. A shipment will leave San Francisco in the evening; it will arrive in Portland tomorrow
1863 evening and be delivered in Portland early Saturday morning. The shipment will leave San Francisco this morning; it will arrive in Portland tomorrow morning and be delivered tomorrow morning. Now, that is a service that is proposed here by the Oregon-Nevada-California Fast Freight.

A. That is a second morning?

Q. Yes.

A. A second morning delivery?

Q. Yes. Well, the following morning, if it leaves here in the morning, or otherwise the second morning. Now, will you tell me how a service of that kind compares with the service that you are offering the public?

A. Equally, sir.

Q. Do you mean by "Equally" that the service that we are proposing here is equal to the service that you are offering?

A. We are giving exactly the same service that you are asking for.

Q. You wouldn't say that the service we are proposing is any better service to the shipping public than that which you are giving?

A. I don't believe so, sir.

Q. Now, if it isn't any better, Mr. Hesselbrook, will you tell me why that is competition that you are afraid of and you feel will be destructive to your business?

1864 A. I only—the only reason for the destructiveness is the fact that the truck tonnage moving between Los Angeles, or San Francisco and Oregon and Washington is limited to a certain number of carriers today, and I only speak for one carrier in stating that, because we have a sufficient amount of tonnage and sufficient revenue from that tonnage, and we are able

to maintain equipment that is safe to operate on the highways and to give the same type of service that is now being asked.

Q. Now, Mr. Hesselbrock, isn't the traffic originating out of San Francisco representative of less than five percent of your total traffic?

A. With us it is, sir.

Q. Now, I was interested in your figures in the period from June 1938 to July 1939. I believe you indicated you handled 5,385,000 pounds; is that right?

A. I believe so, if that is the figure.

Q. And in the following year, from July 1, 1939 to July 1, 1940, you handled better than 11,000,000 pounds?

A. That is right, sir.

Q. Why, you more than doubled your traffic in the course of a year, didn't you?

A. That is right, sir.

Q. Would you say the doubling of that traffic is due to a normal increase in the volume of traffic flowing between the

1865 points that you serve?

A. A normal increase in the traffic?

Q. Yes.

A. I would say that part of it is attributable to that; yes, sir.

Q. What percentage of that would you say is attributable to a normal increase in the traffic in the territory?

A. That I wouldn't be prepared to say.

Q. Would you say it would be less than a quarter?

A. I wouldn't be prepared to say what percentage was attributable to a normal increase in business.

Q. Would you say it would be represented by a minority or a majority of the increase in your own traffic over that year?

A. I believe it would be in the minority.

Q. In the minority? Then, where did you get the traffic as to the balance that you increased in the last year over the first year you mentioned?

A. It was a normal shifting of tonnage, probably, from one carrier to another.

Q. You took it away from other carriers, didn't you?

A. That is right, sir.

Q. Now, similarly with respect to the Bay area, I notice in the first period you mentioned you handled a total of 161,600 pounds and in the second year you handled 715,000 pounds, or an increase of at least 400 percent.

1866 A. That is right.

Q. That is right?

A. Yes, sir.

Q. Would you say that the minority or majority of that was attributable to an increase in the normal flow of traffic?

A. That is still the minority, sir.

Q. And as to the balance of it, you took it away from other carriers, didn't you?

A. That is right.

Q. Possibly my client, the Oregon-Nevada-California Fast Freight?

A. That I couldn't say.

Q. You don't know?

A. No.

Q. Now, similarly I notice that in the month of September 1940, you hauled 79,000 pounds in and out of the Bay area, or approximately 50 percent of all that you handled the first year; that is right, isn't it?

A. That is right.

Q. Now, I am asking you as a transportation man, Mr. Hesselbrock, you handled in and out of San Francisco approximately 79,000 pounds a month that you are anxious to protect. Assuming that the evidence here shows that this applicant, the Oregon-Nevada-California Fast Freight handles not 79,000 pounds, or approximately 40 tons a month, but handles anywhere from 42 to 60 tons a day, would you say that that kind of a carrier is not entitled to protect that volume of traffic?

1867

A. It is hard for me to say, sir.

Q. You wouldn't say "No," would you?

A. (No response.)

Mr. GLANZ. Just a moment.

Mr. BEROL. Now, just a minute. I am asking the witness.

Mr. GLANZ. Let me make an objection.

Mr. BEROL. He has answered the question. There isn't any question pending.

Mr. GLANZ. I move the answer be stricken. I am not as fast as counsel may say I am. I would like to have an opportunity to make an objection. I move that the answer be stricken for the purpose of making the objection.

Chairman TERRIL. It may be so stricken.

Mr. GLANZ. I object to the question on the ground it is not specific as to what counsel means when he says should a carrier not be in a position to protect a certain amount of tonnage. Now, does he mean protecting it by giving good and adequate service, or does he mean by coming in at the expense of other carriers with a request for a new certificate?

We have a lot of tonnage that we would like to protect, too, but the Commission has not seen fit to pass on our application yet.

1868 Chairman TERRIL. I think the witness understands the question.

Mr. BEROL. I will ask that the answer stand.

Mr. GLANZ. If the witness understands it, why, that is perfectly all right with me, but I certainly didn't.

Chairman TERRIL. Did you understand the question, sir?

The WITNESS. Well, I couldn't answer it, sir, except that I didn't know.

Chairman TERRIL. What was the answer?

(The answer referred to was read by the Reporter as follows: "It is hard for me to say, sir.")

Mr. BEROL. I will withdraw the last question.

By Mr. BEROL:

Q. Now, let me give you again an assumption. Again assuming that the Oregon-Nevada-California Fast Freight originates between 42 and 60 tons of traffic per day in the Bay area destined to Oregon and that they propose, instead of interchanging at Medford with a carrier that the evidence shows to be unsatisfactory, to operate their own equipment all the way through to Portland in order to handle exactly the same traffic that they are originating at the present time ——

Mr. GLANZ. Just a moment. I object to the question.

Mr. BEROL. I haven't finished the question yet.

Mr. GLANZ. I am sorry. I thought you were finished.

By Mr. BEROL:

1869 Q. Now, based upon that set of facts, Mr. Hesselbrock, would you say that a carrier in seeking an application to handle traffic which it has today, not which it is going to develop, traffic which it has today, will you tell me how that circumstance is going to affect your company?

Mr. GLANZ. Have you finished?

Mr. BEROL. Yes.

Mr. GLANZ. I object to the question on the ground that it is argumentative and I think if you will have the question reread you will find that Mr. Berol's statement was that the evidence in this case shows that the service apparently by Consolidated where the connection was made was unsatisfactory.

Mr. BEROL. I will eliminate that part from the question.

Mr. GLANZ. Now, I move that the question be stricken on the ground that it is unintelligible without that provision in it.

Mr. BEROL. I will reframe the question leaving out just those words. Now, I again call attention to the fact that if the witness understands the question it makes no difference whether it is intelligible to counsel or not.

Mr. GLANZ. I am entitled to protect my witness, though.

Chairman TERRIL. You will be protected in every right that you have, Mr. Glanz.

Mr. GLANZ. Thank you.

By Mr. BEROL:

1870 Q. Now, Mr. Witness, assuming that the Oregon-Nevada-California Fast Freight, this applicant, originates between 42 and 60 tons of traffic out of the Bay area every day, assuming further that that is traffic that it has at the present time, assuming that instead of carrying that traffic to Medford and there interchanging with another carrier it proposes to carry that traffic all the way to Portland; now, will you explain to me how that kind of a situation is going to interfere or be destructive of your client?

A. Well, the same thing, as I said before, applies here. If the Commission had acted on our grandfather rights or our B. M. C. 8 application, we are prepared financially and otherwise to place equipment at the service of the shippers to serve them directly from San Francisco to Portland or Seattle, but that we are limiting our service today to only such business that comes our way without a great deal of solicitation merely to protect whatever interests we might have there until the Commission acts and we are able to go ahead with the purchase of equipment.

Q. Now, you are not proposing to operate through equipment between Portland and Seattle for the purpose of handling other than shipments of not less than 5,000 pounds, are you?

A. You mean from Oregon and Washington to San Francisco?

Q. San Francisco; yes.

A. We are not proposing to do that?

Q. Yes.

1871 A. We have not given up our application to service it with any less amount or greater amount.

Q. Now, let me ask you, if you instituted a direct through service between San Francisco and Portland, do you expect that you would obtain more or less freight than you obtain in the Bay area at the present time?

A. Do we expect to gain more?

Q. Yes.

A. We would.

Q. Substantially more?

A. Yes, sir.

Q. And some of that you would take away from present carriers, wouldn't you?

A. Yes, sir.

Q. And the Oregon-Nevada-California Fast Freight would be one of them, wouldn't they?

A. That is right, sir.

naming only the major points such as those—and Vancouver, Chehallis, Tacoma, or Olympia, Tacoma, and Seattle.

Q. Are you offering service to all intermediate points in the States of Oregon and Washington from California points?

1846 A. Yes, sir; we are.

Q. Do you have arrangements at various intermediate points for the drop-off of freight at all hours of the day and night at those points?

A. Yes, sir; we have.

Q. Do you have agencies created and established at those points?

A. We have, sir.

Q. In that connection, do you have pick-up and delivery service at Portland, Oregon?

A. Yes, sir; we have.

Q. Do you have that at Seattle, Washington?

A. We have.

Q. Do you have arrangements for the pick-up and delivery of your freight at other points intermediate on your route, particularly the larger towns?

A. Yes; those points that I named all have agents for pick-up and delivery.

Q. Now, on the south-bound movement, what points do you serve on your route and what off-route points do you serve?

A. We serve all points on Highway 99 on the California-Oregon line, such as Weed, Dunsmuir, Redding, Woodland, Sacramento, San Jose, San Francisco, Oakland, and all points mentioned in the Bay area such as San Leandro, Richmond, Emeryville, El Cerrito, Albany, Berkeley, and other points on Highway 99

1847 such as Stockton, Fresno, Madera, Tulare, Bakersfield, and Fresno.

Q. What solicitation does Colletti Fast Freight do at the present time?

A. We have a force for solicitation at Los Angeles and Seattle, and with the two maintain a balanced operation but do not maintain solicitation at San Francisco other than through connecting carriers because we have, as I mentioned before, we did not wish to build up a great deal of tonnage that might be curtailed by the action of the Commission on our grandfather rights or our BMC–8.

Q. Now, is the company in a position to more actively solicit when, as, and if its rights are finally determined?

A. Yes; we are prepared to add more solicitation, more solicitors both in the Bay area as well as Seattle, Portland, and wherever the need might arise.

Q. Does the company definitely intend to do that?

A. We do, sir.

Q. Now, in connection with the operations of the company at

the present time, will you state whether or not you have examined the books and records of the company to determine whether or not it has been operating at a profit?

A. Yes, sir; I have, and I find it has operated profitably.

Q. Will you state whether or not it has sufficient assets to acquire additional equipment when, as, and if, its rights are
1848 finally determined and the BMC-8 application decided by the Commission?

A. Yes, sir; I believe so.

Q. Do you have any doubt about it?

A. No, sir; I don't.

Q. I wonder if you would state to the Joint Board what effect the granting of the present applications, or either one of them, would have upon the operations of Colletti Fast Freight in the territory which it serves.

A. As I see the picture today, the operators now serving the territory to which the two new applications are asking service are operating satisfactorily with sufficient tonnage to maintain equipment that is safe and serviceable, allowing for quick delivery to points in Oregon and Washington, as well as California, and because of the tonnage involved, the tonnage handled by these carriers, they are able to maintain that equipment in a condition that is worthy of road service.

Mr. BEROL. Just a minute.

May I ask that the question and the answer in so far as it has gone to date be read to me?

(The question and answer referred to were read by the Reporter.)

Mr. BEROL. I move the answer be stricken on the ground it is nonresponsive. Counsel asked what effect the application would have on his company. He is now going into a dissertation
1849 and argument upon the two applicants here.

Mr. GLANZ. I think he is merely telling what effect the granting of either one of these applications or both would have upon his service. Naturally, that is not a thing that can be properly said, Mr. Examiner, that it will blast us out of the water, if I may use that term. You naturally have to explain the effect of the granting of the rights upon this protestant's operations. It takes a little time to explain that. I regret that I am not sufficiently gifted with finesse to accomplish the same purpose with the expedition that my learned contemporary does.

Mr. SCHAFER. You mean Mr. Farrens or——

Mr. GLANZ. You have to make some allowances for those things.

Mr. BEROL. Now, I will say that I cast no aspersions upon the finesse of the counsel, Mr. Glanz. I will gladly stipulate that he is gifted with all the finesse that is good for him in this proceeding.

If I was casting any aspersions on anybody's finesse, it was the finesse of the witness.

Now, I still say that the question involved was what effect would it have upon this witness' company. The witness started on a long dissertation through the length of which he has not even mentioned his company yet. Now, what he is doing is arguing the case about what these two carriers have done, upon what they can do, upon what they might do, upon many other things except the question.

1850

Mr. GLANZ. Submit it for a ruling.

Chairman TERRIL. Miss Reporter, will you please read the question again?

(The question referred to was read by the Reporter.)

Chairman TERRIL. I will ask that the witness answer the question. Then, he may explain afterwards, if he so desires.

Mr. GLANZ. I will ask to reframe the question.

Mr. BEROL. Reframing the question won't cure the effect I am complaining of. My motion is to have the answer, as far as it has gone, stricken.

Chairman TERRIL. The answer may be stricken. I ask of the Reporter that she read the question and ask the witness to answer directly the question and then explain if he so desires.

(The question referred to was read by the Reporter.)

The WITNESS. The effect would be destructive to Colletti Fast Freight in that it would spread the amount of tonnage handled by truck from the points in question, Los Angeles or San Francisco, rather, Oregon and Washington, over a number of carriers, thereby taking away revenue from the Colletti Fast Freight that is now being used to buy the latest and best equipment, and to maintain that equipment in service that is safe and sure, and that gives the shipper the quickest delivery to points in Oregon and Washington.

1851

By Mr. GLANZ:

Q. Now, do you have any competition in the field at the present time all the way from Los Angeles to Seattle?

A. Yes, sir; we do. We have competitors.

Q. Who are they?

A. The Los Angeles-Seattle Motor Express and the Pacific Refrigerated Motor Lines.

Q. Is the competition keen between those lines?

A. The competition is keen and yet it is good, because all of us are forced to maintain the best equipment that money can buy and in a condition that will allow it to arrive at the points in Oregon and Washington on schedule, on time.

Mr. BEROL. Counsel, may I interrupt and ask a question?

Mr. GLANZ. Yes; go right ahead.

Mr. BEROL. I notice the witness, in naming his competition, has not named the Oregon-Nevada-California Fast Freight. I feel slighted.

Isn't that one of your competitors, Mr. Hesselbrock?

Mr. GLANZ. My next question was going to lead right to that.

By Mr. GLANZ:

Q. Now, in connection with connecting services with the Los Angeles-to-San Francisco factor, connecting with a San Francisco-to-Portland or Seattle factor, do you face any competition from that standpoint?

1852 A. Yes; we do.

Q. Do you know any of the carriers operating between Los Angeles and San Francisco?

A. Well, I don't know how many I can name operating from Los Angeles to San Francisco, but I will try to name 12.

Q. Would you do that?

A. The California Motor Express, Valley Express and their connection with P. F. L., Pacific Freight Lines; The Independent Freight Lines, Diamond Freight Lines, the Coast Lines; I believe they call it the Coast Lines; it might be the Coast Express; I am not sure; the Valley Express Coast and P. F. L. connection via the Coast Route; Willig Transportation, Hart Transportation, the Savage Transportation.

Q. Is there a Snowden?

A. Snowden Transportation.

Q. Is there a United Forwarders?

A. Yes; there is.

Q. Operating trucks physically?

A. Yes; I believe they are operated by Sterling Transit, if I recall, and then I believe there is an operation called the Pacific Coast Seaboard, but I am not familiar with the route that they operate over, whether they operate into San Francisco or directly into Portland I am not sure.

Q. That is Pacific Seaboard Motor Lines, is it?

A. I believe so.

1853 Q. Now, are you acquainted with the existence of any lines from San Francisco to Portland and/or Seattle?

A. Yes; I am.

Q. Will you name some of those, if you can?

A. The Pierce Freight Lines, the Oregon-Nevada Consolidated in conjunction with the Consolidated Freightways; the Pacific Truck Express, the several rail lines, at least the Southern Pacific as well as the Western Pacific in conjunction with the Great Northern.

Q. That connects at Beaver, California, those two rail lines?
A. That is right.
Q. Now, do you know whether or not there are any interchange arrangements existing between any of the San Francisco-Los Angeles carriers with the San Francisco, Portland, or Seattle carriers?
A. Do I know of any existing?
Q. Yes.
A. I couldn't state definitely as to the existence. I know that that is usually the question brought up by the carriers in soliciting freight in Los Angeles, such as the California Motor Express and the Independent Freight Lines.
Q. They represent to some of your shippers, do they, that they connect at San Francisco for northwest points?
A. Yes, sir; they do.
Q. Now, do you feel the competition from those connections?
1854 A. We feel it to some extent.
Q. Would you feel it to a greater extent if the interchange between Oregon-Nevada-California at Medford with the Consolidated Freightways were eliminated so that both Oregon-Nevada-California could operate from San Francisco through to Portland as well as Consolidated Freightways?
A. I believe so.
Q. Well, do you think that the addition of such lines would have a tendency to make the keen competition that exists between the three through operators now that you have mentioned become destructive competition?
A. Yes, sir; that is why I mentioned that it would be destructive in that it would take away the amount of tonnage that is necessary to maintain proper equipment. It would spread it over a number of carriers and yet not give probably the same type of service because of direct operation as the shippers are now enjoying by virtue of the tonnage handled by each line and its ability to purchase and maintain equipment necessary to give them that service.
Q. I take it that you are opposed to the granting of either of the applications now being heard before the Joint Board?
Mr. Berol. It may be so stipulated.
A. Absolutely.
Mr. Glanz. You may cross-examine, Mr. Berol.
Chairman Terrill. I have one or two questions.
1855 On this list of equipment, Exhibit 28, on the first piece listed here you show a maximum load of 49,700 pounds. Is that correct? Is that the load that you carry on that piece of equipment?

The WITNESS. I believe that is supposed to be 49,000.

Chairman TERRIL. Then, in order to comply with the 54,000-pound weight limit, the light weight of the vehicle is only 5,000 pounds?

The WITNESS. The light weight of the Reo tractor and the Fruehauf trailer together.

Chairman TERRIL. Yes.

The WITNESS. 6,000 pounds.

Chairman TERRIL. You are limited to a 54,000-pound total in the State of Oregon?

The WITNESS. One truck and trailer.

Chairman TERRIL. Yes, and I am asking you whether the load alone is 49,700 pounds?

The WITNESS. Our pay load, you mean by that?

Chairman TERRIL. Yes.

The WITNESS. No, we can't haul that amount of pay load. What we mean by "maximum load" in that last column is the license, as these trucks are all registered in California, with the possibility of handling tonnage through Oregon, but that the gross will be, for example—as I say, that 49,700 should be 49,000 on a
1856 semitrailer operating through Oregon, and as you will notice on the Kenworth truck, 34,000, but that is not the pay load hauled in that equipment.

Chairman TERRIL. I was just curious to know.

The WITNESS. Yes.

Chairman TERRIL. You would have declared in Oregon 54,000 on that?

The WITNESS. Not on the first one. The first one is not a truck and trailer and Oregon only allows 49,000 on a semioperation with a tractor.

Chairman TERRIL. I see. Off the record.

(Remarks off the record.)

Mr. GLANZ. I would like to make a little statement, if I can. I might say off the record——

Chairman TERRIL. Off the record.

(Remarks off the record.)

Chairman TERRIL. You may proceed, Mr. Glanz.

Mr. BEROL. I am willing to accept counsel's statement.

Mr. GLANZ. The operating rights of Colletti Fast Freight at the present time are those named under a grandfather application filed by Tri-State-Motor Lines, Inc., which became bankrupt in 1938 and to whose rights the applicant, or the protestant, A. Colletti, succeeded in June of 1934 when service was immediately commenced.

The Tri-State application was heard long prior to the bankruptcy but was not determined, and before even a proposed

1857 report was issued the bankruptcy intervened and through petition of various protestants the matter was reopened for further consideration for the purpose of bringing the record down to date, particularly because of the bankruptcy intervening.

That further hearing was held, after which a proposed report was issued by Examiner Croft who heard the case, recommending certain rights, specifically general commodities north-bound serving Medford and Portland, I believe, and intermediate points in Oregon.

Mr. BEROL. Including or not including the San Francisco Bay area, counsel?

Mr. GLANZ. Not including the San Francisco Bay area, Mr. Berol, and south-bound the operation was restricted to the movement of fish, the theory of the case being at that time that certain of the operations on other commodities had been abandoned due to the lapse of service, or the failure to operate physically for a period of about three weeks during the bankruptcy period.

Exceptions were filed by the applicant to that proposed report and shortly after the filing of the exceptions the B. M. C. 8 application was filed which sought to protect the movement of general commodities south-bound, the service of all intermediate points in Oregon and Washington on U. S. Highway 99E and W in both Oregon and Washington and the right to serve San Fran-

cisco on the south-bound movement on certain restricted
1858 commodities under the B. M. C. 8 application, namely, fresh and frozen fruits and vegetables and fresh and frozen fish and dairy products in quantities of 5,000 pounds or more, but that did not necessarily mean that the applicant had waived any claim that it had raised in exceptions on the grandfather order that it should be authorized to serve San Francisco as an intermediate point on general commodities.

Shortly after the hearing on the BMC–8 application, which took place in January of this year in Seattle and again in Los Angeles in March, the report of Division 5 came out in the grandfather case which said that the Dregg Cartage case intervened against us and we had no rights whatever under the grandfather clause.

We immediately filed a petition for the stay and reconsideration of that order which, by order of the Commission, within the past two or three weeks, acted favorably for us and the order was stayed, so at the present time we have a grandfather application which is being considered principally under the theory of the Dregg Cartage case and a B. M. C. 8 application which has been heard and is now submitted. I think the submission date is shown on the brief.

May I look at it just a moment [examining document]? It was submitted about May 18th of this year and is now awaiting decision. We haven't a proposed report as yet.

I think that correctly states the present situation in
1859 regard to the right.

Cross-examination by Mr. BEROL:

Q. Mr. Hesselbrock, I was interested in your testimony regarding your proposed use of mechanical refrigeration. Now, you stated, I believe, that you had found the use of dry ice entirely satisfactory?

A. Yes, sir; we have.

Q. What motives are prompting your company to go into the use of mechanically refrigerated equipment?

A. It is a suggestion from certain shippers and also a matter of experiment with ourselves to determine whether the cost of this particular unit will be less to us than the purchase of dry ice per trip, even though we lose half a ton of pay freight northbound.

Q. Now, with respect to the request of the shippers, am I correct in understanding that the shippers have made an expression of preference for the use of mechanically refrigerated equipment in the transportation of refrigerated commodities?

A. No, sir: they have not.

Q. What have the shippers represented to you?

A. They have made a suggestion that we experiment with such a piece of equipment.

Q. Well, what basis did they give you for suggesting that you experiment with it? They don't ask you to put on five tires where you now use four, do they?

1860 A. No. One of the main reasons is the fact that the industry, or the frozen vegetable and berry industry has spread in the northwest to a lot more points than it formerly had. It was centered in certain points and now has spread over the States of Oregon and Washington so that we are forced to pick up for a complete load possibly at three or four different points. When this takes place, the brokers—not really the customers or the consumers of the frozen fruits and vegetables—have felt and made a suggestion that the use of this mechanical refrigeration would enable us to bring our equipment down to a temperature that would meet, or practically meet, that of the cold storage house, something that we don't do today. We load our frozen merchandise and carry with us the dry ice and pack it in that way, but we do not precool to a point that a mechanical refrigerating unit could.

Q. In other words, that is something that can be done with me-

Lubetich, and, I think, those are the chief competitors that were involved at that time.

By Mr. SCHAFER:

Q. Do you feel as A. Colletti apparently feels, that competition is healthy and not necessarily destructive so long as it is lawfully and honorably conducted?

Mr. GLANZ. Among gentlemen.

Mr. SCHAFER. Among gentlemen.

A. As I stated, the competition we have today makes us all keen to give the best service possible.

By Mr. SCHAFER:

Q. How long have you been operating——

Mr. BEROL. May I ask if there is an inference to be drawn from counsel's inclusion?

Mr. GLANZ. No; there is not.

Mr. BEROL. No inference?

Mr. GLANZ. No; no inference. I was just completing the quotation from the brief.

1887 Chairman TERRIL. Just what is this all about?

By Mr. SCHAFER:

Q. You have been Manager how long?

A. With the Colletti Fast Freight?

Q. A. Yes.

A. I would say since approximately April.

Q. Of this year?

A. Yes.

Q. How long has the Colletti Fast Freight been operating?

A. Since June of 1938.

Q. June of 1938?

A. Yes.

Q. And I believe you testified that over that period of time you have enjoyed an increase of some 400 percent in your volume?

A. Yes, the differential between the year of 1938 to '39 and '39 to '40, from June to July.

Q. Do you serve such towns as Medford, Grants Pass, Roseberg, Eugene, Salem, Albany, and Corvallis?

A. Yes, sir; we do.

Q. And you have a daily service to those points?

A. Either directly or via concurring carriers.

Q. In what manner would they be served by concurring carriers?

A. We serve Grants Pass from Medford, from Ashland; we serve Corvallis and Albany from Portland; Medford, Oregon,

from Roseberg and Eugene and Salem, I believe you mentioned those points; those are direct stops.

1888 Q. Those are all good towns, populations from ten to twenty-five, thirty thousand, aren't they?

A. I don't know exactly the population figures of the towns; they are representative.

Q. You have been through there?

A. Yes, I have.

Q. Do they strike you as about that size?

A. Well, I wouldn't know exactly.

Q. Are you aggressively soliciting business at those intermediate points that I just named?

A. South-bound?

Q. Any direction? You can't haul anything north-bound from those points, can you?

A. No, sir.

Q. You are not claiming the right to haul north-bound?

A. No, sir; but we are soliciting north-bound tonnage.

Q. From California to those points?

A. That is right.

Q. Agressively?

A. Also south-bound.

Q. You also solicit south-bound from those points?

A. Aggressively through agents, yes.

Q. Do you have agents at all those points?

A. No. As I said, not at Albany or not at Corvallis or not at Grants Pass; the other points you named; yes, sir.

1889 Q. Now, isn't it a fact that you have no phone listing at any of those principle intermediate points just named?

A. You did not name Portland?

Q. No.

A. No, sir; we have no phone listing of the Colletti Fast Freight in those points.

Q. Speaking of Portland, you had no phone in Portland until this last issue of the directory, did you?

A. I can't testify to that, sir, definitely.

Q. Do you know that you did?

A. I don't know whether we did or did not.

Q. And in the last issue of the San Francisco directory you have withdrawn your phone from San Francisco; isn't that a fact?

A. I couldn't testify as to whether we ever had a listing in the San Francisco telephone directory as the Colletti Fast Freight.

Q. Do you know that Consolidated Freightways maintains terminals and salaried agents and rate agents and a complete

agency set-up for the convenience of the public located in those intermediate towns in Oregon?

A. I don't know that, sir.

Q. Do you ever get up through that territory?

A. Yes, sir.

Q. Where has most of your motor carrier experience been?

1890 A. Mine?

Q. Yes.

A. Exclusively between California, Oregon, and Washington, Sir.

Q. Now, there is testimony in this record that Consolidated does have terminal facilities there including pick-up and delivery.

A. Well, I couldn't testify to that.

Q. You are not questioning that?

A. No, sir; I am not.

Q. Are you actively interested in the intermediate points that you have never put a phone in? Are you opposing Consolidated's application to serve those points that you have been neglecting?

Mr. GLANZ. Just a moment. I move that the word "neglecting" be stricken as that assumes a fact not in evidence.

Mr. SCHAFER. I think that is a fair assumption. Any time that a common carrier giving a daily service doesn't even install a phone in a town of twenty-five or thirty thousand people, it can be assumed that he is neglecting that territory.

Mr. GLANZ. I don't know as that necessarily follows. He might not be soliciting there.

Chairman TERRIL. I think we are wasting time. Sup-
1891 pose you reframe your question in a different manner.

By Mr. SCHAFER:

Q. Are you opposed to the application of Consolidated to serve those points?

A. You mean directly from San Francisco?

Q. Directly from San Francisco.

A. Yes, sir; I am.

Q. On what ground?

A. On the same grounds that we oppose the Oregon-California Fast Freight in that it will distribute the total amount of tonnage moving by truck into those areas over a great—or, at least, over two more carriers, thereby cutting down the amount of tonnage to each carrier and necessitating probably running his equipment with a little less rubber than he was formerly accustomed to run it with when the amount of tonnage was distributed among the carriers now operating.

Q. I think your statement read here a while ago shows that about two percent of your volume originates in the San Francisco Bay area and you stretch that area to Sacramento and points intermediate on your main route between Los Angeles and Seattle, isn't that true?

A. We do that because of the group points that we name in our tariff; that is the reason for the stretching.

Q. Well, even with that stretch of the San Francisco Bay area, only two percent of your volume moves from San Francisco to the points which Consolidated here seeks to serve?

1892 A. Well, if you have figured out the percentage and it is two, or it is five, I don't know exactly what that percentage is there. The reason for that is, as I mentioned before, that though we are prepared financially and otherwise to enter the San Francisco territory and offer direct service between Portland and San Francisco, we have held off until the Commission would act on the grandfather application as well as the BMC–8, though we have and offer the service today.

Mr. SCHAFER. If the Board will bear with me a minute, I am cutting out a lot of questions that were very well covered.

By Mr. SCHAFER:

Q. The distance between Los Angeles and Seattle, you stated, is around 1,225 miles?

A. Yes; sir.

Q. Now, we will say the distance between Medford and San Francisco is around 390 or 395.

A. I don't know exactly.

Q. About that?

A. Yes; sir.

Q. Now, if you had an opportunity to fully load a piece of equipment at Los Angeles for Seattle over the entire route and had to save space for 5,000 pounds from San Francisco to Medford, wouldn't you agree that you would prefer the long-haul traffic? Otherwise you would be operating two-thirds of the distance empty?

1893 A. We are; we do that many times today, sir. We operate trucks and drop off freight from Medford on to Portland and possibly the truck is completely unloaded at Portland.

Q. Your failure to install phones at these shorter points has no bearing upon that question or, I should say, that question has no bearing upon your failure to install phones in these intermediate points?

A. You mean that we do not actively solicit freight for those points but prefer freight for Portland or Seattle?

Q. You prefer the longer haul from San Francisco to Seattle?

A. Well, I will tell you, we get higher rates to such points as Medford, Grants Pass, and so on, so the tonnage is particularly attractive over that consigned to Portland or Seattle.

Q. How about a shipment from Redding to Medford?

A. What do you mean by that, sir?

Q. You would be operating about five-sixths of your run empty if you picked up 5,000 pounds at Redding for Medford, wouldn't you?

A. We sometimes operate the same way from Seattle to San Francisco and operate empty to Los Angeles, but the revenue is in proportion.

Q. You have no phone at Reed, either, do you?

A. No.

Q. Or Sacramento?

A. No.

1894 Q. Or Stockton?

A. No, sir.

Q. You lease some trucks, do you?

A. We operate two leased trucks; yes, sir.

Q. If your business dropped off any, you would tie up your own trucks or dismiss the leased trucks?

A. We thus far haven't been called upon to act in such an emergency.

Q. It has been continuously and steadily increasing?

A. It is, sir.

Q. And that rate of increase is continuing right on up to the present; I believe you testified to that?

A. Thus far it has, sir.

Q. Do you accept Klamath Falls freight from San Francisco?

A. Yes, sir; we do.

Q. How do you handle it?

A. By stopping in at Ashland, Oregon.

Q. And what do you do with it there?

A. Hand it to the Oregon-California or Nevada-California, I guess they call it.

Q. Is that the only way you can get freight into Klamath Falls?

A. It happens to be the only line serving the point; yes, sir.

Q. It is the only line serving the point either from San Francisco or Medford or Ashland?

A. No, sir; not the only line serving the point from San
1895 Francisco. We serve it, but not directly.

Q. You serve it by transporting the freight to Ashland and turning it over to Oregon-California?

A. Yes, sir.

Q. How much of that do you get?
A. Out of San Francisco to that point?
Q. Yes.
A. Very, very little, sir.
Q. Almost none, isn't that a fact?
A. That is right.
Q. Do you handle Lakeview and Burns and Bend?
A. Yes; we do.
Q. You have through rates applying over Ashland to those points?
A. Through rates quoted in our tariff to Lakeview?
Q. Yes.
A. No, sir.
Q. Do you have through rates quoted in your tariff to Klamath Falls?
A. Yes; we have.
Q. Those are concurrences with Oregon-California?
A. That is right.
Q. Any through rates to Bend?
A. Yes; we have.
Q. How are those?
1896 A. We operate through Portland over the Bend-Portland Truck Lines.
Q. You operate into Portland and 200 miles back into Bend?
A. That is right, sir.
Q. Do you handle much of that freight?
A. I couldn't tell you what percentage, but a fairly sizeable tonnage.
Q. What would you say is a "fairly sizeable" tonnage?
A. Not out of San Francisco, however. It wouldn't be a sizeable tonnage into Bend.
Q. It is almost nothing out of San Francisco?
A. That is right.
Q. Now, do you handle Wenatchee freight?
A. Yes, sir; we do.
Q. Transfer that at Seattle?
A. We do.
Q. You arrive in Seattle second afternoon, I believe you stated, from San Francisco?
A. Yes; we do.
Q. And turn it over to a carrier there who makes third-morning delivery at Wenatchee?
A. That is right.
Q. You can't give second-morning service at Wenatchee that Consolidated is here proposing?

Q. So that the only manner in which this application can be destructive to the Colletti Fast Freight is as and when the Colletti Fast Freight may institute a direct service between San Francisco and Portland that might interfere with your ability to get all of the traffic that you want now, isn't that a fact?

A. Well, we are offering that service today ——

Q. Will you answer my question?

1872 A. Direct between San Francisco and Portland, but we are not making any terrific efforts to build up the business we are now handling there.

Mr. BEROL. Now, Mr. Hesselbrock, I don't believe that you followed my question. I am going to ask the Reporter to read it to you, and I will ask that you please answer it.

(The question referred to was read by the Reporter.)

The WITNESS. I believe I answered that. We already have service directly between San Francisco and Portland, but that we are not soliciting a great deal of business.

By Mr. BEROL:

Q. I heard that answer. Now, tell me whether you are concerned as to this application being destructive of your company with respect to the traffic you are now handling or the traffic you expect to handle in the future.

Mr. GLANZ. Just a minute, Mr. Berol. May I ask that you make the question clear—I think the witness has misunderstood you twice now—with respect to whether or not you are including tonnage from Los Angeles as well as San Francisco, or only from San Francisco.

Mr. BEROL. I am talking only about traffic between San Francisco and the northern territory.

Mr. GLANZ. I object to that question, then, on the ground that it assumes that the only way a destructive effect can flow from the granting of these applications will be from the taking of

1873 traffic from San Francisco, and it is directly contrary to what the witness stated on direct, that by the elimination of the interchange at Medford the service will be more attractive to Los Angeles shippers; therefore, more Los Angeles freight will be taken away from this carrier and the service thereby affected.

Chairman TERRIL. I think the witness may answer the question rather than counsel.

Mr. GLANZ. I am submitting my objection.

Will you read the question?

(The question referred to was read by the Reporter.)

Chairman TERRIL. The question, I think, is clear to the witness.

The WITNESS. Yes; I believe it would be destructive.

By Mr. BEROL:

Q. Of what? Present or future traffic?

A. Both present and future.

Q. Now, the only effect it could have upon your present traffic would be as to less than five per cent of it, wouldn't it, as between Portland and San Francisco?

A. I believe that is whatever per cent it might be.

Q. Now, as to what effect it might have upon your traffic between Los Angeles and Portland or between Los Angeles and Seattle, as suggested by your counsel, you offer a through direct service, don't you?

A. That is right.

Q. And even if this application were granted insofar as
1874 traffic between Los Angeles and Seattle is concerned, it would still involve two interchanges, wouldn't it?

A. I believe that is the application.

Q. And are you concerned that this applicant with one interchange in the south, south of San Francisco, and one interchange in the north, north of Portland, would still not be in a position—strike the words "would still not be in a position—would be in a position where he could compete with you and your direct service to your disadvantage?

A. I believe that there would be some freight diverted to these different lines; yes, sir.

Q. Are you willing to concede that the applicant gives a better service than your company does?

A. No, sir.

Q. You are not willing to compete with them on a basis where you still have the advantage of direct service against his interchanging with two other carriers?

A. I believe that we have sufficient services now being offered to take care of the traffic out of the Los Angeles territory as well as the San Francisco territory to Oregon and Washington, and that the addition of more would only create a distribution of the tonnage now being handled, over different and more carriers, so that each carrier would be less able to handle and protect his interests or the shipper's interests.

Q. Now, out of this 79,000 pounds that you handled in
1875 and out of the Bay area and San Francisco, how much was handled with your equipment and how much was handled by interchange?

A. That, sir, I am not—I mean, I couldn't give you any particular amount or the proper figures on that.

Q. The majority of it was handled by interchange?

A. No, sir. The majority of this was handled directly by our own trucks.

Q. Are you in a position to tell us how many days in the m'nth of September you had your own line-haul equipment in San Francisco?

A. I can't state definitely.

Q. Are you in a position to state for the month of August?

A. Neither one; I mean I am not familiar—if I said three or four different times or ten times—I couldn't determine that without having the records in front of me.

Q. And your answer would be the same if I asked you for the year period between July 1, 1939 and July 1, 1940?

A. That is correct; I did not bring those records with me, sir.

Q. You indicated, I believe, that in the handling of your traffic south-bound 65 per cent consisted of frozen fish, frozen fruits and vegetables, is that correct?

A. I would imagine so.

Q. What percentage of that traffic is represented by fresh fish?

A. I am not at the moment prepared to say what the actual percentage would be, but there is a percentage of fresh fish

1876 that we haul.

Q. Now, if my recollection serves me correctly, at the time of the hearing of yourBMC–8 application, either Mr. Colletti or Mr. Turly testified on behalf of your company that 90 per cent of the south-bound traffic consisted of fish, fruits and vegetables; in other words, commodities requiring refrigeration as against 10 per cent consisting of general commodities. Would you say that situation is still true?

A. I wouldn't know what period they were speaking of, sir.

Q. Well, they were speaking of the period immediately preceding the filing of the BMC–8 application. Now, I am asking you whether that is still true today.

A. No, sir; it is not true.

Q. Have you any definite figures as to what the percentage is today?

A. Not with me; no, sir.

Mr. Berol. That is all.

Chairman Terril. We will take a short recess.

(Thereupon, a short recess was taken, after which proceedings were resumed as follows:)

Chairman Terril. Let us be in order, gentlemen. Go ahead, Mr. Schafer.

Mr. Schafer. Before cross-examining, I would like to ask if this is the only witness you are going to put on?

Mr. Glanz. This is the only witness.

1877 By Mr. Schafer:

Q. I noticed, Mr. Hesselbrock, that your company ap-

parently agrees with Consolidated Freightways on the type of equipment practical for operation from California through Oregon into Washington. Do you think a 50-foot truck and trailer spread is proper and the most efficient?

A. No, sir; I believe that we could more satisfactorily operate our business with the weight and length limits of the State of California.

Q. Well, we certainly all agree with that, but Oregon-California believes sincerely, perhaps, properly, that the proper equipment for an operation of the sort proposed would be a six-wheel truck and a six-wheel trailer which would break at the line and the trailer would be hauled by a tractor through Oregon and the truck would be operated solely through Oregon. You don't have any equipment like that, do you?

A. No; but there was an operation like that tried in previous years and it proved unsatisfactory as far as I know.

Q. And the California Motor Express witness who was on the stand yesterday had still another idea. He believes that a six-wheel semi is the most practical, a long semi.

Mr. BERGL. You mean Valley Express, not California Motors?

Mr. SCHAFER. Oh, it was Valley Express. Pardon me.

By Mr. SCHAFER:

Q. Do you disagree with that?

A. I do with regard to the operation that we now have. We use the truck and trailer set-up because of the movement of
1878 frozen merchandise as well as general commodities. We can segregate the two very readily.

Q. You will agree, however, that there is room for an honest difference of opinion?

A. Yes, sir; I do.

Q. Between operating men on what is the most practical equipment?

A. Yes.

Q. In your Sub. 1 public convenience and necessity hearing at Seattle, Mr. A. Colletti testified that you have offices and solicitors only at Seattle and Los Angeles; is that right?

A. Where we maintain our own staff of employees?

Q. Yes.

A. Yes; that is right.

Q. And he said as a witness in that proceeding that you seek to serve only the more populous cities; is that also correct?

A. In what states does he mean that? California, Oregon, and Washington?

Q. I don't know. All I have is a note that says that he so testi-

fied, at page 46 of the transcript, you seek to serve only the more populous cities. Do you know what he meant?

A. No, sir. We do not. We hold ourselves open for service to any point in Oregon and Washington, Idaho, British Columbia, Alaska, via connecting or concurring carriers; also any point in California.

1879 Q. Mr. Berol called your attention to the fact that he also testified that 90 per cent of the freight constitutes refrigerated commodities south-bound, but he didn't mention that Mr. Colletti also testified that the remaining 10 per cent of the south-bound freight originates at Seattle; is that still true?

Mr. GLANZ. May I interrupt just a moment? Does anyone have the record? I didn't bring mine along. I remember on that particular point there was some confusion about the percentages. I think the witness clearly was taking a percentage of the total, then breaking down that percentage as to what was fresh fish and what was frozen fruits and berries, and I think he stated in percentages where the 50 per cent represented 100 per cent of the balance; then, he stated the percentages. Now, I am not trying to say that you are inaccurate, Mr. Schafer, but I am just wondering, for the sake of accuracy, if it wouldn't be better to settle that before we question this witness on it.

Mr. SCHAFER. Well, do you have the transcript?

Mr. PIERCE. Yes.

Mr. GLANZ. The testimony is on page 62. Perhaps we could clarify that point.

By Mr. SCHAFER:

Q. He also stated on page 70 that the service was regular as to hours and not daily, but you state now that you have increased that to daily?

A. Yes, sir; we have.

1880 Q. When you have a truck and trailer load of fresh fish, there are many commodities that you can't accept, aren't there, general commodities?

A. When we handle fresh fish?

Q. When you have a truck and trailer load of fresh fish?

A. Possibly the only commodities that we would not handle with that would be commodities such as butter and eggs.

Q. Anytning that is liable to be contaminated by the odor of fish?

A. Yes; such products, at least, packing house products especially.

Q. Now, I am interested in your contentions with respect to the proposed service in the future. You have pending a petition for reconsideration before the Interstate Commerce Commission, Di-

vision 5, asking them to reconsider their decision that you have no grandfather rights?

A. That is right, we have.

Mr. GLANZ. Just for the sake of accuracy, I don't think that petition is any longer pending. It has been decided that a reconsideration will be granted.

By Mr. SCHAFER:

Q. A reconsideration is in process now. Meanwhile, the effective date of the order has been deferred, postponed?

A. That is right.

Q. If you filed a public convenience and necessity case
1881 in which you do not seek to handle any quantity shipments from San Francisco, can you explain why, in your public convenience and necessity case you did not ask for all the rights which you claim as grandfather rights?

A. Why we did not claim that in the BMC–8?

Q. Yes.

Mr. BEROL. Mr. Schafer, could I interrupt with a question at this point?

Mr. SCHAFER. I would be glad to have you do that.

Mr. BEROL. I wonder if Mr. Glanz would clarify for the record whether or not in the recommended order issued by the Examiner in the grandfather case he filed exceptions to the failure of the Examiner to recommend San Francisco as a point to be served.

Mr. GLANZ. Let's see if I have the exceptions here. I will determine that accurately. I don't recall offhand, Mr. Berol.

Mr. BEROL. I think that might have some bearing on your question.

Mr. SCHAFER. Yes; it would.

Mr. GLANZ. I find in the exceptions the following language, to wit: "Applicant excepts to the restriction of the south-bound service to the transportation of fresh or frozen fish from Seattle, Washington, to Los Angeles, California, including San Pedro,
Terminal Island, Long Beach, and Fresno, California,
1882 with no service to intermediate points on the route in California," so insofar as the south-bound service is concerned, that is true. I haven't read the balance of it.

Mr. SCHAFER. What is true?

Mr. BEROL. Only to fish and only to intermediate points.

Mr. GLANZ. No; applicant excepts to the restriction of the south-bound service to the transportation of fresh and frozen fish from Seattle, Washington, to the restriction to fresh and frozen fish, and to the restriction of the service at the intermediate points only of San Pedro, Terminal Island, Long Beach and Fresno, with no service to intermediate points on the route in California.

Mr. SCHAFER. That would not constitute an exception to failure to grant you a right into San Francisco?

Mr. GLANZ. I do not know whether it would or not. We intended the exceptions to this point would raise the issue entirely with the Interstate Commerce Commission and throw open the entire matter back to the claims of the grandfather case. Whether I specifically raised that in exceptions, I am not prepared to state without reading and interpreting these exceptions.

Mr. BEROL. May I ask if that is the only language in the exceptions that could be construed to having taken an exception to the failure of the Examiner to recommend service to or from San Francisco?

1883 Mr. GLANZ. No. Paragraph III, for instance, reads as follows:

"Applicant respectfully excepts to the failure of the Examiner to find that transportation of commodities south-bound should be coextensive with the transportation authorized north-bound."

Paragraph IV reads:

"Applicant respectfully excepts to the failure to find that the term 'Los Angeles' includes points and places within a radius of 20 miles of First and Main Streets in the City of Los Angeles."

Paragraph V:

"Applicant respectfully excepts to the failure of the Examiner to find that the service of the applicant in the transportation of fresh fruits, frozen fruits, fresh and frozen fish, should be authorized from all producing points in Oregon and Washington to all points on the routes of the applicant within the State of California, including San Diego, California."

Then, reading Paragraph I which is the only one I haven't read:

"Applicant excepts to the restriction on the north-bound service on general commodities, with certain exceptions, insofar as said restrictions authorize service from Los Angeles, California,

1884 to Medford and Portland, Oregon, and Seattle, Washington, only, allowing and authorizing no service to intermediate points between the Oregon-California State line and Seattle, Washington, on the routes traversed regularly."

"Now, those are the major paragraphs of the exceptions and the argument follows: It is not too long, but, perhaps, too long to read now.

Mr. BEROL. Well, I will submit that under the exceptions as just stated by counsel, bearing in mind that Highway 99 is a regular route regularly traversed by the applicant, bearing further in mind that no exception has been taken to the failure of the Examiner to include San Francisco or Oakland as points to be served, that by that failure to so except applicant has in effect

abandoned all claim to serve San Francisco and Oakland under the grandfather clause of the Motor Carrier Act.

Mr. GLANZ. You mean on general commodities? I don't think that is true as to all commodities, nor do I believe it is true even as to general commodities because exceptions to a proposed report presumably stay the effect of the recommended order and calls upon the Commission then to decide the extent an applicant's right, as I understand.

Mr. BEROL. Well, I don't want to engage in any further argument.

By Mr. SCHAFER:

1885 Q. Well, the question which I asked, and which brought this on, was why, in your BMC–8 case, you seek only to operate into San Francisco in lots of 5,000 pounds or more and why you didn't in your BMC–8 case ask for general commodities into San Francisco.

A. Why we did not ask for general commodities into San Francisco?

Q. Yes, in any quantity lots.

A. The reasons for those things I am not prepared to state.

Q. A. Colletti is the Manager of your line, is he?

A. He is the owner.

Q. He is the owner; you are the Manager?

A. Yes, sir.

Q. A. Colletti testified on Page 45 and 46 of the stenographic record in your BMC–8 case and it is quoted on page 66 of your company's brief to the Joint Board as follows:

"Mr. Colletti stated on pages 45 and 46 that he 'would welcome this or any other competition for, I believe, it will keep us on our toes in the matter of service, and I believe there is ample freight for existing companies to carry and make a reasonable profit. My experience has been that the present companies have competed fairly and as gentlemen should, and I believe the public has been the beneficiary of that competition. We have gotten along very well in the past and I can see no reason why we should not in the future.'"

1886 Do you subscribe to the views of the owner, Mr. A. Colletti?

A. To the points that he mentions about mutual cooperation between the existing carriers; yes, definitely.

Q. I should have read a little ahead of where I started in here. The brief says, "In stating that he had no objection to the extension of his chief competitors' operating rights, Mr. Colletti stated at that point * * *"

Mr. GLANZ. That refers to Los Angeles-Seattle and Pete

Mr. GLANZ. I still say it is argumentative whether it is or is not a fact. It assumes that the rate of progress might not have been as great had these things not happened.

Mr. BEROL. May I have the question read?

(The question referred to was read by the reporter.)

Mr. BEROL. I will withdraw it if it is objectionable.

Mr. GLANZ. I still stand upon my objection.

Chairman TERRIL. The objection may be overruled. The witness may answer.

By Mr. BEROL:

Q. Is that right or is it not right?

A. I still say that that was a cause for impairment of service.

Q. Just answer my question as to whether your traffic in-

1912 creased in the amounts I indicated.

A. It could have increased more, sir.

Q. All right. Now, I take it, when your traffic in the course of one year increases from five to eleven million pounds, or more than 200 percent, you consider that an impairment of your service?

A. No, sir.

Mr. BEROL. That is all.

The WITNESS. I do not.

Mr. BEROL. That is all.

Redirect examination by Mr. GLANZ:

Q. Mr. Hesselbrock, in that connection, the Colletti service was first instituted in June of 1938 as such, was it not?

A. That is right.

Mr. GLANZ. That is all.

Chairman TERRIL. We will stand adjourned until 9:00 o'clock in the morning, and I am serving notice now, undesirable as it may be, that if no better progress is made tomorrow than today that tomorrow night we work.

(Whereupon, at 6:00 o'clock P. M., an adjournment was taken to October 18, 1940, at 9:00 o'clock A. M.)

1913 Before The Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC–8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas,

and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA,
October 18, 1940, 10:00 a. m.

Before Joint Board No. 5: C. T. Terril, Chairman; Warren K. Brown, Joseph Starin, H. L. Hanback, Examiner.

1914 Hearing resumed.

Appearances: Same as heretofore noted.

PROCCEDINGS

Chairman TERRIL. Come to order, please.

Mr. IVERS. If the Board please, during the course of the hearing counsel called upon me to make a statement as to the operating rights and the present status of the Los Angeles-Seattle Motor Express which it was understood I would do at the proper time, which is probably now before I put a witness on the stand.

The operation now known under the name of Los Angeles-Seattle Motor Express, Inc., was originally known as the J. J. Hendricks Truck Lines, subsequently as the Hendricks Refrigerated Truck Lines, and then finally as the Los Angeles-Seattle Motor Express, Inc.

The grandfather application was filed before the date provided for in the statute and an informal conference was held in the fall of 1936. A compliance order was issued in January of 1938 and remained in effect until October of 1938 when it was cancelled by the Commission.

The compliance order provided for the service substantially as then and since performed by the Los Angeles-Seattle Motor Express, Inc.

1915 The grandfather rights of Los Angeles-Seattle Motor Express went to hearing, formal hearing, on February 8, 1939. This hearing was followed by a joint board recommended order issued in July of 1939 recommending the granting of certain

limited rights between Seattle and Los Angeles and certain intermediate points not including San Francisco, California.

Exceptions were taken and at the same time a Form BMC-8 application came on for hearing at Seattle, Washington, the hearing being completed on January 31, 1940.

The case was finally submitted on April 10, 1940. No order has been forthcoming, recommended or otherwise, as a result of the BMC-8 application and hearing.

On July 2, 1940 Division 5 issued an order on the grandfather application providing for operating rights from and to Seattle and Los Angeles, general commodities, with the right to serve Medford, Oregon, and Portland, Oregon, general commodities northbound out of Los Angeles, but denying to the Los Angeles-Seattle Motor Express the right to serve San Francisco either as an origin or destination point.

The present status of the Division 5 order is that it has been stayed to December 14, 1940. In the meantime, Los Angeles-Seattle Motor Express has filed a petition for reconsideration, and in the alternative to reopen the grandfather case on the ground

that principally certain traffic which was in dispute in

1916 Pete and John Lubetich, doing business as Pacific Refrigerated Motor Lines; Williams Bros., successors to A. Fornacieri, now known as California and Northwest Motor Express, and Ora James Mitchell doing business as Mitchell Bros., was the traffic of the Los Angeles-Seattle Motor Express or of those applicants respectively.

In the order of July 2, 1940, of Division 5, it was decided that the disputed traffic claimed by John and Pete Lubetich, doing business as Pacific Refrigerated Motor Lines and of Williams Bros., successors of A. Fornacieri, was in fact the traffic of the Los Angeles-Seattle Motor Express.

Since none of the shipping documents transported on the vehicles of those parties were utilized by Los Angeles-Seattle Motor Express in its grandfather application, because of the existing dispute as to whose traffic it was, the petition to reopen the grandfather case is based primarily upon the adjudication by the Commission, or by Division 5, rather, that that traffic is the traffic of Los Angeles-Seattle Motor Express.

There has been no action taken so far upon the petition to reopen the grandfather case or upon the alternative petition to reconsider the decision of Division 5.

Chairman TERRIL. Mr. Ivers, does the BMC-8 application include a petition to serve San Francisco?

Mr. IVERS. Yes; it does.

Mr. ELLIS. And did you state what commodities were

1917 involved in the claim of grandfather rights?

Mr. IVERS. General commodities.

Mr. ELLIS. General commodities.

Mr. PIERCE. I mean on these commodities, these bills claimed by Pete Lubetich and the other party?

Mr. IVERS. Well, they are general commodities although I would say that the south-bound bills would be preponderantly fresh and frozen fish and fresh and frozen produce and fruits.

Mr. PIERCE. But general north-bound?

Mr. IVERS. General north-bound and some general south-bound, also.

Chairman TERRIL. What were the towns named under the grandfather you were granted in Oregon that have not yet been finally determined?

Mr. IVERS. Those that have not been finally determined are Roseberg, Salem, and Eugene.

Chairman TERRIL. And the two that you mentioned——

Mr. IVERS. Medford and Portland.

Chairman TERRIL. All right.

Mr. IVERS. I will call Mr. Hendrickson.

OSCAR M. HENDRICKSON was sworn and testified as follows:

Direct examination by Mr. IVERS:

Q. Your name is Oscar M. Hendrickson?

A. That is correct.

1918 Q. Where do you live, Mr. Hendrickson?

A. 515 North 50th Street, Seattle, Washington.

Q. What is your occupation?

A. I am employed by the Los Angeles-Seattle Motor Express.

Q. In what capacity?

A. Well, as office manager in Seattle.

Q. Do you also handle the routing and dispatching of equipment from Seattle?

A. I do.

Q. And the loading of equipment?

A. Yes, sir.

Q. How long have you been connected with the Los Angeles-Seattle Motor Express?

A. Well, with them and their predecessor since 1936.

Q. Where is the principal office, the head office of that organization located?

A. Seattle, Washington.

Q. Will you describe generally the route traversed in daily operation by the Los Angeles-Seattle Motor Express.

A. On north- and south-bound U. S. 99 between Seattle and Washington, and Los Angeles, California, and between Seattle,

A. I don't know whether Consolidated makes that second
1897 morning or not.

Q. I will tell you that Consolidated is here proposing to render a service which would give Wenatchee second-morning delivery from San Francisco. Can you match that with your system at present?

A. From San Francisco?

Q. Yes.

A. If, as I say, we went into San Francisco; if we went into the San Francisco territory with a view to building up the business as we have from Los Angeles to Oregon and Washington, we could match it very readily. You said what, second morning?

Q. Well, now, I would like to have a more direct answer to my question. In the first place, you are not even asking for the right to operate from San Francisco on less than truckload quantities or less than 5,000-pound quantities, so let's assume you are going to do, and you have asked to do, and if you are fortunate enough to prevail in your BMC–8 application and that you handle less than 5,000-pound lots via—what is it, Stockton?

A. Connecting carriers.

Q. At Stockton.

Mr. BEROL. Modesto or Fresno.

Mr. SCHAFER. Modesto or Fresno.

By Mr. SCHAFER:

1898 Q. Now, could you then match the service which Consolidated is here proposing second morning to Wenatchee?

A. No sir; we could not match it with a connecting carrier service like that.

Q. And how do you serve Spokane?

A. Via Portland.

Q. And you arrive at Portland second morning?

A. Second morning.

Q. Second morning?

A. Yes; sir.

Q. Then, the best you could do to Spokane would be third morning?

A. Third-morning delivery; yes; sir.

Q. Do you know what time in the morning that service arrives in Spokane?

A. Ready for delivery at eight or nine o'clock, as I understand it.

Q. And what carrier do you use out of Portland?

A. Spokane-Pacific Lines.

Q. Now, you can't at present match the service which Consolidated is proposing to Spokane, that is, second-morning delivery, three A. M., three A. M. second morning at Spokane?

A. Is that a direct service from San Francisco without transfer?

Q. Directly through from San Francisco through Klamath Falls and Biggs, a route 150 miles shorter, less congested, of
1899 course, and a faster highway.

A. At the moment we couldn't, operating with a connecting carrier.

Q. You never have been able to render such a service, have you?

A. We never have been able to render second-morning delivery out of San Francisco to Spokane; no, sir.

Q. Well, then, you are not here opposing the application of Consolidated insofar as they ask the right to render that service, are you, through Klamath Falls to Spokane, these inland points?

A. Only in so far as it would grant them the right to operate a direct service from San Francisco north and thereby take away a portion of the tonnage by virtue of that.

Q That is what you are concerned about?

A. Yes; I could not testify as to any particular point, but generally we oppose it on that basis.

Q. Do you haul any north Idaho and Montana freight through that way?

A. We handle very, very little Montana; we do operate to or handle quite a little tonnage into western points on the western slope of Idaho.

Q. About how much?

A. I couldn't give you an exact figure.

Q. Were you here when the testimony was introduced by Consolidated that it presently enjoys in connection with Oregon-California's service, a volume of 20,000 pounds a day des-
1900 tined to points that would be on the route wnich I have just described through Klamath Falls?

A. I was not here for that testimony; no, sir.

Q. If I tell you that there is at present a volume of 20,000 pounds daily moving into that territory and which would get the benefit of the 24-hour faster service, would you still oppose the granting of the application for the reason that it might involve some risk of loss of a small portion of your tonnage?

Mr. GLANZ. I object to the question on the ground it goes beyond the scope of the direct. It is an attempt on the part of counsel to make the witness his own witness.

Mr. SCHAFER. Will you read the question, please?

Mr. GLANZ. On the further ground that it is immaterial.

Mr. SCHAFER. It is material just to what extent this Protestant——

Chairman TERRIL. All right. Let's have the question.

(The question referred to was read by the Reporter.)

Chairman TERRIL. The objection will be overruled.

A. Yes; sir; I would.

By Mr. SCHAFER:

Q. I think you weren't here, but Mr. James testified that there is at present moving into Montana through Twin Falls, Idaho, and Butte, Montana, involving two transfers en route, a volume of about 15,000 pounds daily which could be transported over
1901 this route I have just described amounting to a through haul on a single line and saving 24 hours on all of that traffic.

Now, we now have accounted for 35,000 pounds daily presently moving into that territory. If I ask you the same question in connection with that total, would your answer be the same? Do you still oppose the application?

A. We do on the basis, as I mentioned before, that service to those points and the other points named would take away a certain amount of tonnage distributed to carriers when there is service adequately available for shippers today.

Q. Well, now, you admit that you can't render such a service yourself. Are you seriously contending that the people of that vast inland territory should be denied a 24-hour savings in the service between San Francisco and that territory to protect your interest in a few hundred pounds a day which you transport in there?

Mr. GLANZ. I object to the question as argumentative.

Chairman TERRIL. The objection will be sustained.

Mr. SCHAFER. I didn't have a chance to express myself.

By Mr. SCHAFER:

Q. Now, in your own public convenience and necessity case, you urged and all of your witnesses urged that through service by one carrier without a transfer was vastly superior to the service of connecting lines?

A. That is right.

Q. Every one of your witnesses, if you were there you will
1902 recall, testified to a dissatisfaction with a connecting service.

Mr. IVERS. I object to that on the ground the witness was not there. The question assumes he was there. He went to work for this operation in April. The hearing was held last January.

The WITNESS. No, I was there; that is right.

Mr. SCHAFER. He says he was there and he says that is right.

Mr. IVERS. He wasn't working for the company at that time.

Mr. SCHAFER. Do you want me to read from your brief and ask you if you subscribe to the views subscribed to in that brief?

Mr. GLANZ. I will stipulate that substantially all the public witnesses, Mr. Schafer, who testified in the Colletti case indicated

that they preferred a direct-through service to one requiring interchange. I will stipulate that.

Mr. SCHAFER. All right. I will accept the stipulation.

By Mr. SCHAFER:

Q. That case is still pending before the Joint Board?

A. That is right.

Q. And in view of that stipulation you will concede, won't you, that if you have a direct service out of San Francisco to Seattle and points on Highway 99 that you would have
1903 a solicitation advantage over the present joint service conducted by Consolidated?

A. Yes, sir; we would.

Q. And it has been shown here that you presently enjoy about one-third as much traffic as Consolidated and Oregon-California jointly handle out of this territory?

A. I wouldn't know that, sir.

Q. That statement, I believe, is in evidence. I won't have to raise that.

The business that you have gotten out of San Francisco just came to you without any solicitation at all, you say?

A. No, sir; not without solicitation. It was either through solicitation efforts of connecting carriers or our own efforts in Portland, Seattle, and Los Angeles.

Q. Will you turn around and face this way?

But you did testify that you are not now exerting any effort at all, yet your tonnage increases and increases?

A. We are not exerting a great deal of effort in the solicitation of tonnage in and out of the San Francisco Bay area.

Q. Well, now, I want to get this one point straight. Your principle concern is that if the services are permitted to operate out of San Francisco, then the superservice which you operate between Los Angeles and Seattle will be endangered because some of the operators between Los Angeles and San Francisco
1904 will start turning freight over to Consolidated or Oregon-California and they will be more nearly competitive with you; isn't that a fact?

The WITNESS. I don't quite get the question.

Mr. SCHAFER. Will you read that question, please?

(The question referred to was read by the Reporter.)

A. The objection I raise is the same as I mentioned before, the distribution of tonnage doesn't permit the carriers now operating to maintain equipment in the condition it must be maintained to give the service on such a long-line haul if we distribute it among carriers, more carriers.

By Mr. SCHAFER:

Q. Doesn't that amount to saying that you are afraid you are going to lose some of that Los Angeles-Seattle tonnage?

A. Yes; I believe we will.

Q. Don't you really mean that if they are more nearly competitive to you by being permitted to operate through without a transfer that their business wouldn't be so easy for you to take? You have already admitted that the business which you have obtained was taken from existing carriers.

Mr. GLANZ. Object to the question on the ground that it is compound and argumentative; further, it is immaterial.

Mr. SCHAFER. Well, I think it is very material that we weed out the points in this case.

Mr. GLANZ. Well, it is compound and it is argumentative, then if it is not immaterial.

1905 Chairman TERRIL. Oh, I think the witness may answer it.

The WITNESS. Will you read the question, please?

(The question referred to was read by the Reporter.)

A. No, I didn't admit that that was the case in all instances. A portion of the business that we have received that is shown in the increase is from business taken from already existing carriers and also a normal increase in business.

By Mr. SCHAFER:

Q. Well, keep in mind that admission and your 400 percent increase in the past four years since you have started operating, is it your desire that these carriers be held at a competitive disadvantage by being compelled to interchange freight while you take the rest of their business?

A. I believe that we have—that the carriers now operating are giving service to the shippers in the areas that these two applications are now asking for.

Mr. SCHAFER. May I have the last answer read, please?

(The question referred to was read by the Reporter.)

Mr. SCHAFER. That strikes me as not responsive to the question. Can I bother you for the question?

(The question referred to was read by the Reporter.)

By Mr. SCHAFER:

Q. That is what you want them to do?

A. You ask me if t' it is our desire?

Q. If that is your desire.

A. To keep you at a disadvantage?

1906 Q. Yes.

A. I don't know just exactly how to answer that question.

Q. Perhaps I can help you. At equal rates you will concede

that this new through service that you have inaugurated in the last few years is superior to the joint service of several connecting lines, won't you?

A. It is; yes.

Q. And everything else being equal and assuming that you put your advantages before the shipper, why, you can expect to take business away from the connecting lines, can't you?

A. Yes, sir.

Q. And if they are held at a disadvantage, why, you will then have an opportunity to take even more of their business?

A. Yes, sir.

Q. And that is your desire in this matter?

A. Yes, sir.

Mr. SCHAFER. That is all.

Redirect examination by Mr. FARRENS:

Q. I would like to ask the witness if he was present to hear the explanation of the 14 points which caused the interchange at Medford to be unsatisfactory.

A. No, sir.

Chairman TERRIL. Was there an answer?

Mr. FARRENS. He answered it and said he was not.

Mr. GLANZ. Just one or two questions.

1907 By Mr. GLANZ:

Q. Now, Mr. Hesselbrock, as I understood the questions and the answers that you have given on cross examination, your fear with respect to the impairment of the Colletti service is based upon the diversion of traffic?

Mr. SCHAFER. Now, just a minute. I am not going to have counsel telling this witness what his fear is. I am going to ask that the witness testify.

Mr. GLANZ. All right. I will strike the question.

By Mr. GLANZ:

Q. Mr. Hesselbrock, in connection with the movement from Los Angeles to Portland and Seattle at the present time, do you know whether or not any of the movement from Los Angeles is going by Independent Freight Lines and other carriers operating between Los Angeles and San Francisco by interchange with carriers at San Francisco eventually destined to points in Oregon and Washington?

A. Yes, sir; I do know that; that is the case.

Q. Now, that is in face of the necessity for interchange in some cases at Medford, Oregon, at the present time, isn't it?

A. That is right.

Q. Now, in the event of that interchange at Medford, Oregon,

being eliminated, do you think that that will cause a loss of additional tonnage to the through operators operating between Los Angeles and Portland and Seattle?

A. Yes, sir.

Q. Now, will that adversely affect your company?

1908 A. It will, sir.

Q. Now, do you know how many concurring carriers were named as participating carriers under joint through rates in the Pacific Inland Tariff Bureau tariff approximately a year ago?

Mr. BEROL. Between what points?

Mr. GLANZ. Between Los Angeles, California, and Pacific Northwest points including Portland and Seattle.

Mr. SCHAFER. Objected to as tending to prove nothing of concern in this hearing.

Chairman TERRIL. What is the purpose of the question, counsel?

Mr. GLANZ. Pardon me?

Chairman TERRIL. What is the purpose of the question?

Mr. GLANZ. The purpose of the question is simply to show that about a year ago there was one concurring carrier mentioned in the P. I. T. B. Tariff and today there are approximately six.

Chairman TERRIL. The objection will be overruled.

Mr. SCHAFER. Now, just a minute. Then, in view of the explanation there I would like to have an opportunity to argue that point. He doesn't urge that there are any more carriers. He merely urges that more have joined the P. I. T. B. Tariff.

Mr. GLANZ. Under through rates. I still submit the question is competent.

Mr. SCHAFER. No more service than there was a year ago.

1909 Mr. GLANZ. They couldn't serve it if——

Chairman TERRIL. The witness may answer. The Board has ruled.

The WITNESS. You asked me did I?

By Mr. GLANZ:

Q. Is that a fact, that there was approximately one year ago only one carrier, namely, California Motor Express?

A. Yes, sir; I believe so.

Q. And there are approximately six as of today?

A. I don't know how many, whether it is four or five or six today.

Q. Has that resulted in an increase in the amount of traffic that moves over those connecting lines from Los Angeles to the Pacific northwest?

A. Yes, sir; it has.

Q. And does that fact have a tendency to impair the service of Colletti Fast Freight and other carriers similarly situated?

A. Yes, sir; it does.

Q. Now, you mentioned on cross-examination, I believe, in response to some questions put by Mr. Schafer, that there might possibly be some advantage to Montana and Idaho shippers through the connecting service at San Francisco from the south, or even from San Francisco direct into Montana points via this new route of Consolidated.

Now, by that same token, in your opinion, will the impairment of the Colletti service affect the numerous shippers in
1910 the southern California territory who are presently shipping to the Pacific northwest points?

A. Yes, sir; it will.

Q. Is that by the same token that the receivers of freight in Montana will be improved in service that the shippers in southern California will be impaired?

A. Impaired.

Mr. SCHAFER. If counsel would have held up his hand I would have accepted his testimony.

Mr. GLANZ. That is all. Thank you.

Mr. BEROL. I have one or two questions.

Re-cross-examination by Mr. BEROL:

Q. Mr. Hesselbrock, did I understand your testimony correctly that over the last year the number of carriers holding concurrences in this area in the Pacific Inland Tariff Bureau operating between Los Angeles and San Francisco has increased from one to six?

A. Operating from Los Angeles to San Francisco?

Q. Yes.

A. From Los Angeles or San Francisco into Oregon.

Q. Has that increased from one to six?

A. From one—I wouldn't say six.

Q. Five or six?

A. Maybe. Four, five, or six, I don't recall exactly.

Q. And that you state is a kind of situation which results
1911 in distributing the traffic such as you have complained of here today?

A. That is a portion of the cause for the distribution.

Q. And that, you say, has resulted in impairing the service of the Colletti Fast Freight?

A. To an extent.

Q. I take it by "to an extent" you mean to the extent that the Colletti Fast Freight volume increased in that year from 5,000,000 pounds over the previous year to 11,000,000 pounds in that year, or an increase in excess of 200 per cent?

Mr. GLANZ. I object to that as being argumentative.

Mr. BEROL. I am just asking him whether that is a fact.

Washington, and Oakland and San Francisco, California, covering all intermediate points.

Q. At what points along that route does the Los Angeles-Seattle Motor Express maintain terminal facilities?

1919 A. At Seattle, Washington; Portland, Oregon; San Francisco, California; Oakland, California; Los Angeles, California; that is property that they operate themselves.

Q. Then, what about other intermediate points which are served at which terminal facilities operated by Los Angeles-Seattle are not maintained?

A. Medford, Oregon; Eugene, Oregon.

Q. Well, what facilities are used at Medford, Oregon?

A. Well, we have an agent there that does our pick-up and delivery work there and soiicitation.

Q. Who is the agent?

A. O. K. Messenger Service.

Q. What type of an operation is that?

A. Oh, it is merely a pick-up and delivery service.

Q. Do they maintain a terminal there?

A. Yes, sir.

Q. All right. Now, what about Salem and Eugene?

A. McCracken Brothers are our agents there.

Q. And do they maintain a terminal there?

A. Yes, sir; they do.

Q. By the way, how long have you had the present connection with the O. K. Messenger at Medford?

A. Well, it has been as long as I have been employed.

Q. And was that arrangement made before you became employed?

A. Yes, sir.

1920 Q. And has been continuous ever since?

A. Yes, sir.

Q. How about the arrangement with McCracken Brothers at Salem and Eugene?

A. I believe that has been over the past two years.

Q. Two years. Now, what about California points?

A. We have terminal facilities through agents at Sacramento, California; Stockton, California; Modesto, California.

Chairman TERRIL. What was the last one?

The WITNESS. Modesto. Bakersfield, California; I believe those are all.

By Mr. IVERS:

Q. Do you have a connection at Fresno?

A. Yes; we have one at Fresno.

Q. Now, where do you maintain pick-up and delivery equipment of your own?

A. At Seattle, Washington, and Los Angeles, California.

Q. How much pick-up equipment do you maintain at Seattle, Washington?

A. Five units.

Q. And how much at Los Angeles?

A. Five units.

Q. What pick-up service do you have available in the San Francisco Bay district?

A. We have the Haslett Warehouse Company in both San Francisco and Oakland, California, do our pick-up work for us.

1921 Q. And how much pick-up equipment have they available?

A. I don't know exactly, but I believe it is in excess of 100 units.

Q. What about the pick-up equipment in Portland, Oregon?

A. We are in a terminal there, a terminal company operating jointly with ourselves and several other lines doing the pick-up work for all of the lines.

Q. How much equipment have they available?

A. I would say that they have approximately 20 units at this time.

Q. Have you made up a schedule of the equipment, road equipment operated by the Los Angeles-Seattle Motor Express?

A. Yes, sir.

Mr. IVERS. May this list of equipment be marked?

Chairman TERRIL. It will be marked for identification as No. 29.

(Exhibit No. 29, Witness Hendrickson, marked for identification.)

By Mr. IVERS:

Q. Handing you what has been identified as Exhibit No. 29, Mr. Hendrickson, I will ask you what that is?

A. Well, that is a schedule of the equipment operated by the Los Angeles-Seattle Motor Express, Inc.

Q. On the first page of Exhibit 29 is that the power equipment?

1922 A. That is the power road equipment; yes, sir.

Q. And on page 2, the second page of it, what is that?

A. Those consist of trailers.

Q. What type of equipment is used by Los Angeles-Seattle Motor Express as to whether it is semitrailer or truck-trailer?

A. Well, we attempted to make the operation exclusively truck and trailer although we still have on hand, I believe, three semitrailers.

Q. Now, how many pieces of the equipment stated on the exhibit are owned by the Los Angeles-Seattle Motor Express?

A. I believe 17 of the units on the exhibit.

Q. And the balance of them, how are they operated?

A. They are leased.

Q. Are they continuously operated in the service of the Los Angeles-Seattle Motor Express?

A. Yes; they are operated in the same manner as our own equipment, or at least, completely controlled.

Q. In whose name are they licensed?

A. They are licensed in the name of the Los Angeles-Seattle Motor Express.

Q. And are they operated under a written lease?

A. That is correct.

Q. Are those leases filed with the proper regulatory bodies?

A. Yes, sir.

1923 Chairman TERRIL. Your pick-up equipment all belongs to your own company?

The WITNESS. Yes, sir. In my statement of 17 units here I was in error in that counting the truck and trailer as two units, it would be 24 units.

Mr. SCHAFER. You mean 24 units owned?

The WITNESS. Yes, sir.

By Mr. IVERS:

Q. Now, will you describe the method of operation of the Los Angeles-Seattle Motor Express as to times of departure from their various terminal points and times in transit?

A. South-bound out of Seattle, Washington, we have trucks leaving at varying times from 6 o'clock in the evening until as late as midnight destined for both the Bay region and for Los Angeles, California. We feel that it takes us 36 hours out of Seattle, Washington, into San Francisco and Oakland, California, offering thereby second morning delivery in the Bay region.

Service out of Seattle to Los Angeles direct takes us 48 hours in transit offering third morning delivery in Los Angeles. Service to both points is daily. The same is true in the reverse direction.

Q. Now, on the average, how many pieces of equipment will be dispatched daily from Seattle?

A. Three to four.

1924 Q. Do you know how many round trips your entire fleet of equipment made in any one recent month?

A. Well, it would be in the neighborhood of 70 trips.

Chairman TERRIL. Just a moment. That is 70 trips in both directions?

The WITNESS. Yes; it would be 140 one way trips.

Mr. SCHAFER. That is per month?
The WITNESS. Yes, sir.

By Mr. IVERS:

Q. Will you describe your practice with respect to the service of San Francisco, that is, serving it with through trucks from and to Los Angeles and turning trucks around at San Francisco?

A. We turn a number of trucks in San Francisco back northbound to Seattle and the overflow which cannot be handled by trucks turning here is handled daily by trucks dispatched from Los Angeles through the San Francisco area leaving here early in the morning and being in Portland, Oregon, the latter part of the next day.

Q. Now, in the experience of your company has it at times been necessary to dead-head equipment, load it with south-bound traffic to San Francisco, and dead-head it to Los Angeles to turn around down there?

A. Yes, sir.

Q. And on those occasions there was not enough traffic available in San Francisco to turn them around here?

1925 A. That is correct.

Q. Do you have connecting carriers at various points to serve points beyond your line?

A. Yes, sir.

Q. What service have you been able to afford the Bay Region to Spokane via connecting carriers?

A. On the trucks that are out of here in the forenoon they offer second morning at Spokane; trucks that are out of here later in the day third morning in Spokane.

Q. How late in the day does a truck pass through San Francisco or leave San Francisco in order to afford second morning delivery in Spokane?

A. It must be out of here by noon.

Q. What time must the connection be made at Portland?

A. It must be made by five o'clock in the afternoon.

Q. Is it possible for you to give that service on any shipments requiring second morning delivery in Spokane?

A. Yes.

Q. And how can you arrange to give that service on any such occasion?

A. Well, if someone has a specific rush shipment that has to be in Spokane the second morning we can arrange to have it on a morning truck leaving here, one coming from Los Angeles leaving here in the morning.

Q. You can leave space purposely on a Los Angeles truck

1926 to handle such a shipment?

A. Yes, sir.

Q. And do you do that?

A. Yes, sir.

Q. There has been some testimony introduced here with respect to the operation of a 24 hour service between San Francisco and Portland, Oregon. What have you to say with respect to that as to its practicability?

A. I don't believe that it can be done as a—it is possible to run a truck over the road in that time, but I don't believe it would be a safe operation, and I don't believe it would be an economical operation for the carrier, and I don't believe it can be done within the speed limits now in existence.

Q. Well, now, you say it can't be done within the speed limits. Have you any computation with respect to that?

A. According to a mileage schedule issued by the Public Utilities Commission of the State of Oregon by their accountant, Mr. Erickson, it is 702 miles Portland to San Francisco. As I understand it, the applicants here propose to go that 702 miles in 24 hours. I feel that they will lose 1½ hours, at least, in transit changing drivers. They must division at least 3 times, and exchange equipment. As I understand some of the operators here intend to make equipment changes at the line, and I feel that they would lose at least another hour in transit checking tires
1927 and fuel and they must further make stops for at least four scales and checking stations in transit; namely, at Oregon City, Roseberg, Grants Pass and Hornbrook.

Further, I hear that they are going to go on this 24 hour schedule, service way points. I feel they would lose at least a mininum of an hour and a half at way points if they are going to deliver any quantity of freight whatever, reducing the total running time over the highway, as I figure it, 20 hours. Dividing the 20 hours into the 702 miles you are already in excess of the speed limit over the highway.

Q. How many miles per hour does that produce?

A. Well, it is in excess of 35, not quite 36.

Q. 35 plus?

A. Yes, and then I know from my own experience that there is, I believe, 40 to 70 miles of mountain territory over this run where their speed limit is going to be cut down, I would say, in the neighborhood of 15 miles per hour, and they further have left no allowance for this reduced speed limit, and they have left no allowance for time lost in town traffic, no allowance for time lost in wintertime when there is plenty of ice in the mountains, slides at Dunsmuir and that vicinity and other adverse weather conditions, and running over the highway, particularly up in the Sacramento Valley in the summertime you are going to have

an excessive amount of tire failures, further cutting down
1928 their time in transit, their time, rather, that they will have available to be in transit.

Q. Now, as a practical matter, in the dispatching of equipment from the San Francisco Bay Region and Oakland in order to give the most expeditious service in connection with the pick-ups from shippers, what time is it most advantageous for leaving the Bay Region?

A. Well, I would say 6 to 7 in the evening.

Q. And a 24 hours service to Portland, Oregon, would then place you in Portland at what time?

A. Well, the following night too late to deliver to any party in Portland.

Q. What time would you have to arrive at Portland in order to, as a practical matter, to make any deliveries on the day of arrival?

A. Oh, I don't believe it would be possible to make any deliveries of any quantity unless they were in there before 4 o'clock in the afternoon.

Q. What have you to say with respect to the practicability of morning schedules leaving at 7 or 8 or 9 o'clock in the morning from the Bay Region destined to those territories?

A. Well, I believe it is very impracticable for the reason that they cannot, in my opinion, obtain sufficient tonnage out of this area, out of any area, to run early morning schedules out
1929 unless they hold considerable tonnage from the night before.

Q. In other words, is it possible to pick up any tonnage between closing time the previous night and 7, 8, or 9 o'clock the following morning?

A. No sir, unless it is somebody who has an extreme emergency where they want you to do something at night.

Q. So that practically the only traffic which would be available for morning schedule would be connecting traffic moving from the south out of Los Angeles at night?

A. Out of Los Angeles and possibly some of the surrounding territory here.

Q. Yes; and if such a schedule were operated in order to make it practical it would be necessary, would it not, to engage in an extensive solicitation in the territory south of San Francisco to keep it operating?

A. Yes, sir.

Q. There has been some testimony with respect to the operations of the Los Angeles-Seattle Motor Express in the San Francisco Bay Region being limited to loads of 5,000 pounds or more. What is the fact with respect to that?

A. We can handle any shipment of any size as long as the individual piece is not too large for a piece of equipment, is not in excess of 20,000 pounds in a single piece.

Q. Did you prepare for the previous hearing an exhibit consisting of an abstract of shipping documents selected
1930 during the month of April 1940 from the shipments to demonstrate the service into San Francisco?

A. I did.

Mr. IVERS. I will ask that this be marked.

Chairman TERRIL. It will be be marked as "No. 30."

(Exhibit 30, Witness Hendrickson, marked for identification.)

By Mr. IVERS:

Q. I hand you what has been identified as Exhibit No. 30. Will you state what that is?

A. This is an exhibit showing approximately—let's see—I believe 18 pages, single line, an abstract of shipments handled in and out of the Bay Region by the Los Angeles-Seattle Motor Express between the date April 1, 1940, and the date April 30, 1940, being a single month. The shipments range anywhere from little 30, 40 pound minimums, up to a larger—the largest part of a truckload.

Q. You have the underlying documents with you from which this abstract was made?

A. I have.

Mr. IVERS. By the way, I will offer Exhibits 29 and 30 at this time.

Chairman TERRIL. No. 30 is only north-bound; movements originating out of San Francisco?

Mr. IVERS. Both north- and south-bound; yes.

THE WITNESS. Both directions.

1931 Chairman TERRIL. Any objection, gentlemen?

Mr. BEROL. We have no objection.

Mr. SCHAFER. No objection.

Chairman TERRIL. Exhibits identified as Nos. 29 and 30 will be received in evidence and marked with those numbers.

(Exhibits Nos. 29 and 30, Witness Hendrickson, received in evidence.)

By Mr IVERS:

Q. Mr. Hendrickson, there has been a considerable amount of testimony submitted with respect to the need for mechanical refrigeration and some testimony as to the merits of mechanical and other refrigeration. What type of refrigeration is used by the Los Angeles-Seattle Motor Express?

A. We use both dry ice and crushed ice and have all insulated bodies.

Q. Now, assuming for the purpose of this one question that mechanical refrigeration would be equal or superior to dry ice or wet ice refrigeration, in so far as its operation is concened, is there any disadvantage in the use of mechanical refrigeration due to the fact that refrigerated commodities move only in one direction?

A. Yes, sir.

Q. What is that disadvantage?

A. Well, from what I have been able to find out——

Mr. BEROL. Just a minute. I am sorry. May I have that question and answer read?

1932 (The question and answer referred to were read by the reporter.)

Mr. BEROL. I will object to the question on the ground that it assumes facts not in evidence, that, as a matter of fact, it is directly contrary to the facts in evidence. This record is replete with testimony that refrigerated commodities are moving both ways. Now, we can't assume a set of facts here for the purpose of a question that is directly contrary to the evidence in the record here.

Mr. IVERS. Will you enlighten me as to what evidence you refer to?

Mr. BEROL. Why certainly. There was testimony by a number of witnesses to the effect that produce in substantial amounts moved from the Sacramento and San Francisco areas north-bound. Mr. Ivers was not present at the hearing.

Mr. SCHAFER. I refer you particularly to the testimony of Stadelman of The Dalles.

Mr. IVERS. The fact is that such testimony referred to periodic movements. The continuous movement is south-bound as counsel well knows.

Mr. BEROL. It is also a continuous movement north-bound. Now, I haven't the transcript here. If I had I could point to the testimony of a particular shipper who testified in Portland he does and will have the need for continuous north-bound shipments of produce.

1933 Now, there is additional testimony of that kind in the record here.

Counsel, without even having been present at the last hearings, can't lacerate the record to suit his own purpose.

Mr. IVERS. I still think my question is proper. The facts that it assumes may or may not be in the record, but I have a right to ask a question upon as assumed set of facts. I have asked such a question.

Mr. BEROL. And the assumed set of facts are directly contrary to the evidence of record here. Now, he can assume anything that

may not be inconsistent with the record here, but what he is assuming here is directly contrary to the record. That is beyond the bounds of proper assumption.

Mr. IVERS. I disagree with counsel very seriously. It is not beyond the bound of proper assumption. If counsel wants to argue that this question becomes immaterial, that there is evidence to the contrary, that is a matter of argument. As long as the facts are assumed, not stated as facts, but assumed for the purpose of the question, there can be no objection to it.

Mr. BEROL. I will submit the objection.

Chairman TERRIL. The objection will be overruled.

Mr. BEROL. May the record show an exception, please.

Chairman TERRIL. You may have an exception.

Mr. IVERS. Will you answer the question, Mr. Hendrickson?

1934 The WITNESS. May I have the question?

(The question referred to was read by the reporter as follows:

"Q. What is that disadvantage?")

A. Well, from the investigation I have made I cannot readily see how we can obtain a refrigerating unit weighing much less than 1,500 pounds complete with compressor and blower and all the other incidental equipment thereto. A truck and trailer such as we are operating and the applicant, Consolidated, intends to operate, in order to refrigerate the whole unit would have to have two of these compressors, two ventilators—two fanning systems; but supposing we only used one for half of the unit, in order to keep that section of the unit refrigerated, and we have an additional weight of 1,500 pounds south-bound, and we have got 1,500 pounds more north-bound, that is 3,000 moving in a round trip, and we feel that 1,500 pounds moving north-bound is just a dead loss to us in revenue and the amount of dry ice we use south-bound is substantially less than that, and lower temperatures can be arrived at with dry ice, I feel, than with mechanical refrigeration.

Q. Well, now, on that latter point, you say that lower temperatures can be acquired with dry ice than with mechanical refrigeration. Will you explain that.

A. With dry ice, the temperature of the ice, it is my
1935 understanding, is 163 degrees below zero, and the mechanical units that I have seen in operation will bring a body down to zero if the compressor is large enough.

Q. What factors effect the ability of mechanical refrigeration to bring the temperature of the body down to zero?

A. The size of the compressor.

Q. What about the insulation?

A. Well, the insulation of the body will have to be adequate in order to hold the temperature in there.

Q. Well, now, in establishing the adequacy of such insulation what outside temperature condition would have to be used as the normal—that is, as the yardstick that you would use?

A. Well, I hardly understand your question.

Q. Well, I will reframe it.

In determining either the size of the compressor or the necessary amount of insulation to insure zero temperature with the use of mechanical refrigeration, what outside temperature condition would have to be used as the one to be met?

A. You would have to use the hot weather prevalent in the Sacramento Valley up here, and around Bakersfield where at certain times of the year it is 115 degrees outside.

Q. Now, once you had equipped your equipment with mechanical refrigeration, would you have to use it the year round?

1936 A. Yes, sir.

Q. What is the fact with respect to dry ice and wet ice?

A. Well, you can vary the quantities used during the year depending on weather conditions.

Q. Will you indicate what that variance might be as to any given product or generally?

A. Well, you can take, as an example, the product fresh fish which seems to be quite a dominant movement from the north. During the winter months it is not necessary to top ice in one of these loads in an insulated body. The ice supply by the shipper will carry the load through to destination here in the Bay region, but getting along in the month of April when it begins to get warm we top ice once in transit. When we get into midsummer we top ice twice in transit, and then when we are getting on at this time of the year we begin to reduce it to once in transit; when we get along about next month or into December, why, we eliminate the top icing altogether then for the balance of the winter months. In mechanical refrigeration you still have at least part of your unit with you, if not all of it.

Q. Now, in the case of fish, if you had mechanical refrigeration would you still have to use wet ice?

A. Well, fresh fish would still have to be packed with wet ice if mechanical refrigeration was used. The only thing that
1937 mechanical refrigeration does is impede the thawing of the ice.

Q. What have you to say about the responsibility of the driver, or the necessity of reliance upon the driver with respect to mechanical refrigeration as against dry ice?

A. Well, we feel that——

Mr. SCHAFER. Just a minute. Before I object I would like to ask if it wouldn't be a good idea to qualify this witness a little further about mechanical refrigeration? It is "We feel this" and "We feel that."

The WITNESS. I am telling you from my own experience what I have found out.

Mr. SCHAFER. Well, then, I will ask that the witness be instructed to testify from his experience with mechanical refregeration.

Mr. IVERS. What he is testifying to are obvious physical facts. They are not necessarily——

Mr. SCHAFER. If they are obvious let the Board take judicial notice of them.

Mr. IVERS. They have got to be called to the attention of somebody who knows about them.

Mr. SCHAFER. I am going to object to further testimony on the difficulties of mechanical refrigeration until it is shown that this witness has experience with mechanical refrigeration and on the grounds he is not qualified to so testify.

1938 Mr. IVERS. I think the witness' testimony so far shows he is amply qualified. I submit the ruling.

Chairman TERRIL. Have you had experience with mechanical refrigeration, Mr. Hendrickson?

The WITNESS. We have not operated it on our own operation.

By Mr. IVERS:

Q. Have you investigated mechanical refrigeration?

A. Yes, sir.

Q. Have you checked with those who are operating with mechanical refrigeration?

A. Yes, sir.

Q. Have you watched their operations?

A. Yes, sir.

Q. Have you assembled literature on the subject of mechanical refrigeration and studied it?

A. Yes.

Q. Have you taken every available means known to you to find out all you could about mechanical refrigeration?

A. Yes, sir.

Mr. SCHAFER. With the explanation in the record he has no personal experience with it, I will withdraw my objection.

Mr. IVERS. Would you read the last question, please?

Mr. SCHAFER. I will say I am withdrawing my objection inasmuch as it is now clear in the record all his information

1939 is hearsay, or he has no personal experience with it.

Mr. IVERS. Well, I won't admit that counsel's statement

is right by any means. However, it is on the record. I am not going to argue it. I just don't want to appear to admit his statement is right.

Chairman TERRIL. May we have the question, Miss Reporter?

(The question referred to was read by the reporter as follows: "Q. What have you to say about the responsibility of the driver or the necessity of reliance upon the driver with respect to mechanical refrigeration as against dry ice?")

A. Well, we feel in our case it is rather putting all your eggs in one basket with mechanical refrigeration. When the unit leaves Seattle bound for San Francisco I know how much dry ice has been used on the unit, I know that it will hold the load for at least a sufficient time for the truck to normally get to San Francisco. If the unit should break down in transit I know the load will be held there until such time as I can get further dry ice to the truck in order to keep the temperature down and save the commodities from spoiling or deteriorating in any manner. If I had a mechanical unit going down the road the driver is solely in charge of it. Supposing that mechanical unit should break down and the driver should not be cognizant of the fact, it could easily
1940 thaw out the load upon arrival in San Francisco—by the time the unit arrived in San Francisco. I would have no way of controlling that factor.

As it is now, we can control from our nearest office the amount of refrigerant used in the unit and thereby know the length of time that that merchandise on there will be frozen.

By Mr. IVERS:

Q. Now, Mr. Hendrickson, what have you to say with respect to the difference between mechanical refrigeration and dry-ice refrigeration with respect to refrigerating the body as a whole or parts thereof?

A. Well, I can probably list an example to you, what occurred the night before I left Seattle, namely, last Saturday. That night we handled such varying commodities as lemons, facial preparations, such as toilet creams, and eggs, cheese, oysters, fresh fish, frozen fish, and miscellaneous machinery and dry freight. I have heard somewhat lengthy testimony here regarding—how it is so simple to just refrigerate that entire body in one of these units. I would like to see one load of all of these various commodities in a body and turn on a mechanical refrigerating contrivance and open that body and see what they would look like when they arrived in San Francisco.

Q. Will you explain why?

A. Well, I listed toilet preparations; that cannot go below
1941 a certain temperature, particularly creams that we have

been hauling, because it will separate like French dressing, and it is of no value after that. I listed oysters; you can't freeze them or they are destroyed upon freezing. I listed fresh fish; that cannot be frozen. The method of preserving fresh fish to keep a flow of water on it at all times. That is the reason they use crushed ice. I listed frozen fish, that cannot rise above freezing because it would—as soon as it is thawed, why, the glazing leaves the fish and you are responsible for a claim. I listed eggs; you can't get below freezing with them or they are destroyed. I listed cheese; you can't put cheese in the same body with fish or the odor is there and the cheese is destroyed. In fact, we also had cold-pack fruits; you can't put them in a body with wet fish because you have water present there that would destroy the cartons.

Q. At what temperature do frozen fruits have to be maintained?

A. Well, the cartons are marked specifically "Keep at zero". We cannot keep them—they must be kept at least 20 degrees above zero, not any higher.

Q. Zero, or 20 degrees above zero would have destroyed all of the commodities except fresh fish and frozen fruits?

A. Well, except frozen fish and frozen fruits. Fresh fruit would also have been destroyed.

Q. Now, with dry ice used as a refrigerant what are you
1942 able to do?

A. Well, we are able to localize the cold on commodities that must be kept extremely frozen and load other merchandise in the same body with the merchandise that must be kept frozen.

Q. How do you localize it?

A. With the use of thermos quilts.

Q. There has been some testimony, Mr. Hendrickson, as to the way the Los Angeles-Seattle Motor Express handles fish, that other commodities are mixed with that fish so as to damage the lading. What is the fact with respect to your method of handling fish?

A. Well, that is the reason that we are very much in favor of truck and trailers. It gives us twice as many bodies to operate in order to handle these varying commodities. In other words, we can keep the fish in one. If we are only sending one truck to one particular point we can keep the fish in one body and the general merchandise or commodities that would be damaged by the fish odor or the water in another body.

Q. Is your equipment designed so as to be flexible with respect to fish loadings?

A. Yes; sir; we have bodies that will handle 7,500, 8,000, 12,000, 16,000, 20,000 and 21,000, and no matter what kind of a portion of a certain type of commodity you have you can almost have one of those bodies that will fit the load.

1943 Q. And the differences in those body sizes are bodies on trucks as well as trailers, are they not?

A. Yes; sir.

Q. So that in developing a full truck and trailer you can fit together a longer trailer with a shorter truck body or vice versa?

A. That is correct.

Q. And in practice that is what you do?

A. Yes, sir.

Q. Is there any other reason with respect to the load limit in Oregon that indicates the use of truck and trailer rather than semitrailer?

A. Well, probably the principal reason or one of the principal reasons that we are getting rid of all of our semitrailers is the fact that in Oregon a semitrailer will only allow 49,000 pounds. All of the freight we have been able to obtain from the south, or, rather, from California moving north-bound has been somewhat bulky, and we run into a declining load factor when we get into semis. I know positively at times we have not more than 14 to 16 thousand pounds on a semitrailer and the body was full, while a truck and trailer would probably have been able to get on a capacity load on account of the additional loading capacity.

Q. The additional cubic content?

A. That is correct. In fact, I might say that some months 1944 ago we made an exhaustive study in Seattle of the different pay-load factors between trucks and trailers and semis and we found that we were able to get on a truck and trailer approximately $170 more in pay load in a round trip than we could on a semi.

Q. There has been a considerable amount of testimony given by shipper witnesses and others with respect to amounts of fruit from the north, potatoes, onions, butter, cheese, commodities of such kind available to truck transportation.

What have you to say as to the availability of those commodities for truck transportation?

A. Well, they are available if anybody wants to haul them, but I don't believe either of the applicants here would care to haul them, and I know for certain that we wouldn't care to haul a great many of those commodities on account of the rates existing on them being so very low in carload quantities that it wouldn't be profitable to handle them.

Mr. SCHAFER. May I have that question?

Mr. BEROL. What kind of commodities are you talking about now, Mr. Witness?

Mr. SCHAFER. I would like to have the question read.

(The question referred to was read by the reporter.)

Mr. BEROL. I will ask that the portion of the answer dealing with his belief as to whether these applicants would care to
1945 handle it or not be stricken, on the ground, first; it is not responsive; second, on the ground it is a voluntary statement; third, on the ground no qualification has been shown.

Mr. IVERS. I am satisfied that the answer in toto is a perfectly proper answer. Here is a man who has had considerable experience in transportation by motor truck, common carrier, in this territory. I think he is entirely competent to give his opinion as to what these applicants would do about freight that would produce less than sufficient revenue to make it profitable for them to handle it.

Chairman TERRIL. You wouldn't contend that the applicants would be bound by his testimony?

Mr. IVERS. No, of course not, but I think he has a right to express his opinion on it.

Mr. BEROL. I don't think it is of sufficient importance to justify taking up any time in argument. I will submit the objection.

Chairman TERRIL. I will allow the answer to stand for whatever it is worth.

The WITNESS. In addition to the low-revenue factor, I have sat through these number of days of this hearing, and I have heard all about this available farm-products tonnage. I have never heard mentioned here the fact that there are approximately 100 trucks operating over this highway from the northwest into
1946 San Francisco and Los Angeles that are hauling commodities such as these farm products, and I have never heard mentioned Western Lines operating out of Portland with—I don't know the exact number of units they operate now, but at one time they were operating as many as 30. I have never heard of Wilson and Spanton of Spokane——

Mr. SCHAFER. Just a minute, now. This is not responsive to any question at all and certainly is unqualified testimony. I have repeatedly raised this point throughout the hearing. A witness by taking this stand and reciting the names of a lot of carriers who are not present, who are not protesting, who may or may not be rendering a service to the public, constitutes no evidence whatever of the adequacy of the service being performed by those alleged carriers. If those carriers want to come in here and allege that they are adequately serving the public they have the opportunity to do so.

Mr. ELLIS. Can't we talk about it?

Mr. SCHAFER. You can talk about it if it were adequate or competent testimony.

Chariman TERRIL. I think that part of the objection that it isn't responsive to any question perhaps is——

Mr. IVERS. Well, I think the answer is responsive. I asked him a general question about the availability of this produce for truck transportation. Now, that is an answer to it, that here are
1947 a bunch of exempt carriers that he is naming; he is saying from his own knowledge that they are in operation, that they are serving the public. He has given the number of units of equipment that they have been operating in accordance with his knowledge of the subject. He is not just giving a list of names.

Mr. SCHAFER. That is incorrect.

Mr. BEROL. Well, just a minute. I will object on the ground it is incompetent, irrelevant, and immaterial. The Commissions have consistently held, and some of the courts, that in the consideration of an application of public convenience and necessity the only carriers to be taken into consideration, the only carriers worthy of any consideration, are those carriers who are subject to regulation and who are operating pursuant to a grant of authority similar to that claimed here.

Now, the holdings have been consistent. Other types of carriers are not to be taken into consideration because they may be here today and they may be gone tomorrow. They may start and they may stop at will. They are not conducting the type of operations upon which the public may rely.

Mr. IVERS. It is peculiar that Mr. Berol would make such an objection when both of these applicants have laid so much stress upon shipper witnesses who have testified to exempt commodities which are being handled on the vehicles of exempt
1948 carriers because the commodities are exempt. The fact that what Mr. Berol says may generally be true certainly is not true with respect to the vast amount of shipper witnesses that have been brought here to testify concerning exempt commodities. Now, if those exempt commodities have available to them existing exempt services, then that certainly is pertinent as an explanation, or in answer to the question of the need for further service to carry exempt commodities.

Mr. FARRENS. May I just add a word here about Mr. Schafer's objection which is on the grounds, as I understand it, that these carriers to which the witness has referred are not here protesting? That is, to my mind, a most novel position to take, that public convenience and necessity is determined by the amount of protest that may be made to an application.

According to his theory, there might be a thousand carriers in the field with 20 times as much equipment as is necessary and yet, if for any reason they fail to protest, it would follow then that there would be public convenience and necessity requiring the one-thousandeth and one carrier to get into the field.

Mr. SCHAFER. I want to respond to what Mr. Farrens has said. He misunderstood the objection in the first place. The objection is based upon the ground that the mere naming of a carrier in a proceeding of this sort is no evidence whatsoever of the adequacy of the service being performed by that carrier. There may be a thousand carriers; there may be a thousand shippers, as we call them, who operate almost no service at all, but the fact that they have rights isn't evidence that they are serving the public.

1949

Mr. FARRENS. If I am mistaken in counsel having based his objection on the ground that these carriers were not here protesting, then, I better go and get my ears examined, because I am certain that is what he said.

Mr. SCHAFER. I stated that if they wished to show the adequacy of their service——

Chairman TERRIL. I think we are all building up a large part of the record here that isn't of very much value as far as all this conversation is concerned.

Mr. SCHAFER. I agree it is entirely immaterial.

Chairman TERRIL. And the Board is prepared to overrule the objection and allow the witness to answer proper questions along this line.

We will allow you an exception.

Mr. SCHAFER. I didn't ask for any.

Chairman TERRIL. At the same time we will take a short recess.

(Thereupon a short recess was taken, after proceedings were resumed as follows:)

1950

By Mr. IVERS:

Q. Mr. Hendrickson, are there any other produce haulers operating in this territory that you know of, other than those that you have named?

A. Yes, there is Pacific Coast Fruit Express, Markel Truck Lines, H. S. Knutsen, and it seems to me that the practice of any of these carriers that have been denied their rights, that have to cease operations, has been immediately to go into the exempt commodity class and start hauling these farm products.

Q. Well, now, these last three that you named, where are they operating to and from?

A. Well, they are operating from the Yakima and Wenatchee Valley, and in fact, any place in the State of Washington or northern Oregon to any point in California, but principally San Francisco and Los Angeles.

Q. And in a return direction where are they securing their traffic?

A. In the return direction they are hauling farm products from

central California, southern California, and northern California to the northwest.

Q. Now, what has been the history of recent years of the rates on these commodities?

A. They have sharply declined over the past few years.

Q. Take butter and cheese, and commodities of that classification; what has been the rate history in the past two or three

1951 years?

A. They have declined from, I know at one time, 90 cents down to where now rates are being quoted out of Portland at 63 cents.

Q. And what about apples?

A. Apples have—there has been almost a 100 percent decline in them. I remember a time when we were handling apples at $1.20 per hundredweight, now, the going rate is 60 cents per hundredweight.

Q. Is the same thing true of other related commodities?

A. Yes, sir.

Q. There has been some testimony here with respect to the routing of frozen commodities such as cold-pack commodities, fruits, and vegetables from the northwest. In your experience, who handles the routing of particularly the less than truckload lots?

A. The brokers seem to virtually control it.

Q. And how do you get your shipping orders?

A. In a great many cases from the brokers.

Q. And a shipping order from the broker, will that entail one pick-up or more than one pick-up.

A. Well, the reason the broker seems to control a great deal of the movement is the fact that he can through himself pool a number of pick-ups to obtain pool rates.

Q. And you will get your shipping orders from the broker, then?

1952 A. Yes, sir.

Mr. SCHAFER. That question has not been answered yet.

Mr. IVERS. Which question? It has been answered to my satisfaction.

Mr. SCHAFER. One pick-up or several pick-ups? I would like to hear the answer to that myself.

The WITNESS. Well, we make several in a good many instances.

By Mr. IVERS:

Q. In your experience where does the bulk of the frozen commodities requiring refrigeration, or commodities other than those that are frozen which require refrigeration originate?

A. The larger portion of the frozen commodities come out of the

Valley of the White River, about 30 miles out of Seattle. The largest cold pack plant on the coast is located there.

Q. Are there other places in western Washington north of the White River Valley and also south of the White River Valley where the cold pack originates?

A. Yes; there is a considerable volume moving from a packing plant at Chehalis, packing plants at Mount Vernon, and packers in Everett and a number of packers in Seattle, Washington.

Q. Is there any comparable movement north-bound?

A. No.

Q. What about fish?

A. Well, the fish, in excess of 90 percent of it moves out of
1953 Seattle.

Q. In which direction does it move?

A. South-bound.

Q. Is there any comparable north-bound movement?

A. No, sir. In stating 90 per cent of the fish moving out of Seattle I am not taking into consideration certain fish moving from the Oregon coast points which has developed in the last year or so. That has so far moved rail on account of the very low rate. That is just a seasonal movement though; it is just one month of the year.

Q. What time of the year is that movement?

A. I believe about August is the month.

Q. In comparison with that what is the fish movement out of the northwest, out of Seattle particularly? Is it seasonal or otherwise?

A. No; the fish movement out of Seattle is the year around and this movement off the coast is only one month and, I believe, that that movement will disappear. It is rapidly disappearing on account of canneries being installed at Astoria and Oregon coast points, and it has been an artificial movement being just moved to California for canning purposes and now canneries are going into operation there on the coast that will handle it.

Q. When you say that the fish movement out of Seattle is a year round movement, is it the same type of movement all the
1954 time?

A. No; in the summertime it is fresh fish; in the wintertime it is mostly frozen fish that has been frozen during the summer for winter months consumption.

Q. Where do you maintain solicitors, Mr. Hendrickson?

A. Seattle, Washington; Portland, Oregon; jointly between San Francisco and Oakland; Los Angeles, California; all on our pay roll directly.

Q. Do you have other solicitation along the line?

A. Yes, sir.

Q. And who performs the solicitation other than those you named?

A. Connecting carriers, and on some of these connecting carriers we share the salary of their solicitors.

D. Do you have solicitation at all points where you have representation either through your own company or through agencies?

A. Yes, sir.

Q. Do you engage in any form of advertising to reach the shipper?

A. Yes, sir.

Q. And what forms of advertising do you engage in?

A. We use trade magazines, leaflets, blotters, cards, routing orders, and we have used radio advertising.

Q. Do you carry a listing in a shippers' guide?

1955 A. Yes, sir; we carry a listing in several guides, in fact.

Q. Also advertisements in those guides?

A. Yes, sir.

Q. And who are the subscribers to those guides?

A. The shipping public in the western states.

Q. The trade magazines that you referred to, who are the subscribers to the trade magazines?

A. Well, principally people interested in the motor freight industry.

Q. Including traffic men who ship by motor freight?

A. Yes, sir.

Q. And the circulation of those journals is rather a free circulation to the traffic men?

A. Yes, sir.

Q. Does the circulation of that advertising include the San Francisco Bay area?

A. Yes, sir.

Q. There was some testimony given on behalf of the J. E. French Company, dealer in Chrysler parts. Has that company made any shipments over your line?

A. Yes; they began shipping over our line shortly after the last hearing was held here in San Francisco.

Q. Did they begin shipping unsolicited, or did a solicitor call upon them?

A. I am not certain as to that.

1956 Q. Have they been shipping consistently during the past two or three months?

A. Yes, sir.

Q. There was some testimony given on behalf of the Meredith Fish Company of Sacramento by C. Bud Meredith with respect to need for transportation. Who handles the routing of the Meredith Fish Company?

A. Lloyd Turncliffe.

Q. Now, I don't remember the date upon which Mr. Meredith was testifying, but it was about the 10th of August or the 5th of August. Will you indicate from the bills that I am handing you whether you were handling any shipments for the Meredith Fish Company at the time that Mr. Meredith was testifying?

A. At the time he was testifying we must have been unloading at his particular place of business at that time and have consistently handled his business since that date.

Q. On Exhibit 30 are there a number of shipments to and from the Meredith Fish Company shown during the month of April 1940?

A. Yes, sir.

Q. You have in front of you a group of shipping documents. Are those for shipments handled to and from the Meredith Fish Company?

A. Yes, sir.

1957 Q. And between what dates?

A. Well, these are from—just prior to the last hearing here.

Q. What date is the first one?

A. August—or July 27th, down to last Saturday night when I left Seattle.

Q. And how many shipments are there?

A. 16.

Chairman TERRIL. Did any of those move between Sacramento and Astoria?

The WITNESS. No sir.

Mr. IVERS. None.

By Mr. IVERS:

Q. Have you ever received any complaint from Mr. Turncliffe or Mr. C. Bud Meredith, or the Meredith Fish Company on the service offered by Los Angeles-Seattle Motor Express?

A. No. My only contact was with Mr. Turncliffe prior to the last hearing. That is the first time I had ever seen Mr. Meredith, and then I heard his comments there regarding our service.

Q. Had you ever received any letter of complaint or notice of complaint from him?

A. Only about a year ago in midwinter when trucks were tied up by slides in the mountains.

Q. And the railroads were tied up and everybody was

1958 tied up, is that right?

A. Yes, sir.

Q. Did you hear some testimony concerning the need for

a meeting of ships in the San Francisco Bay area for traffic from the northwest?

A. Yes, I heard considerable testimony regarding that, and the statements that they were unable to obtain second morning delivery in here from the northwest to meet the Matson Lines' sailings for the Orient and naval ships leaving here.

Q. Now, what is the fact with respect to the rendition of such service by the Los Angeles-Seattle Motor Express?

A. We are consistently handling those types of shipments and giving second morning service in San Francisco.

Q. Are you giving second morning service on shipments other than those that depart on Matson Lines?

A. Yes, sir; out of Seattle.

Q. Now, handing you some shipping documents of the Los Angeles-Seattle Motor Express, will you describe some of the shipments and the dates of those shipments which were consigned to boats leaving San Francisco.

A. August 16th from the Doran Company, Seattle, Washington, to the district supply officer, care of the Matson Navigation Company, Pier 32, San Francisco, sound warning signal parts. That was going to the supply officer at the Navy Yard at Pearl Harbor.

1959 August 13th from Coolidge Propellor Company in Seattle to the Honolulu Iron Works care of the Matson Navigation Company, San Francisco, one crate containing two bronze propellors.

October 5th, the F. S. Lang Manufacturing Company, Seattle, two crates of parts to supply officer at the Mare Island Navy Yard.

October 5th, National Steel Company, baggage for the supply officer at the Mare Island Navy Yard.

Q. Now, what are those that go to the Mare Island Navy Yard?

A. They are for ships that are in dry dock.

Q. All right; what is the next one?

A. Washington Iron Works to Standard Iron Works, Honolulu, apparently shipped by Matson out of here.

From San Juan Fish Company, Seattle, Seattle Pacific Products, Manila, Philippine Islands, shipped by Matson out of here.

Coolidge Propellor Company, Seattle, Honolulu Iron Works, Honolulu.

Q. What is the date of that?

A. September 28th.

Q. This year?

A. Yes, sir.

From B. B. Buell, Seattle, supply officer, Mare Island, California.

1960 Wire Rope Manufacturing, Seattle, Washington, supply officer, Mare Island, California, September 21st.

August 17th, Fluckinger Machine Works to Matson Navigation, San Francisco.

Q. Now, have you been——

Chairman TERRIL. Just a second.

Any movements of perishables from Seattle or northwest markets?

The WITNESS. Yes; some of these were perishables to catch steamers.

By Mr. IVERS:

Q. Have you been handling shipments of this kind continuously?

A. Yes, sir.

Q. Including perishables?

A. Yes, sir.

Q. What type of perishables have you been handling for transshipment?

A. Frozen fruits, frozen fish products, and fresh fruits and vegetables.

Q. Did you hear the testimony given on behalf of R. G. Le Tourneau at Stockton, California?

A. Yes, sir.

Q. Prior to the time that you heard the witness on the witness stand had you received any complaint about the service of the Los Angeles-Seattle Motor Express?

1961 A. No; I had not.

Q. Now, handing you a group of shipping documents I will ask you if those represent recent shipments to and from the Le Tourneau Company at Stockton, California?

A. Yes, sir.

Q. Will you tell the number of them and the dates of them.

A. I count 48 shipments since the date of the last hearing here in San Francisco down to the present date, down to last Saturday when I left Seattle, and those shipments were for various points in Washington and Oregon.

Q. Now, you heard the testimony of Mr. Husband of the Seattle Pacific Products Company?

A. I did.

Q. With respect to the necessity for moving perishables in very large quantities from Seattle to San Francisco for transshipment beyond?

A. Yes; I heard that he had to catch steamers and was unable to get the service at the time.

Q. Since the time of the hearing have you received orders from the Seattle Pacific Products Company?

A. Yes, sir.

Q. To make that type of delivery?

A. Yes, sir.

Q. Handing you a letter which is dated August 26, 1940, will you indicate the shipment that was covered by that letter,
1962 the commodities involved and the weights of those commodities?

A. Well, it says "Confirming our telephone conversation of this afternoon we are shipping to San Francisco to catch the 'SS City of Newport News' the following cargo marked Standard Bar, Manila." The letter was dated August 26th and the shipments consisted of—well his letter to us was to pick up 100 pounds of duck, 100 pounds of capons, 230 pounds of turkeys, 450 pounds of fish, 36 pounds of chicken livers, 60 cases of frozen strawberries, 200 pounds of frankfurters, 100 pounds of liverwurst, 100 pounds of salami, 100 pounds of bologna sausage and 800 pounds of fish, and these were at various places around Seattle to be picked up. None of the weights agreed with those I listed, but were very close when we actually picked them up.

Q. Now, then, did you get another shipping order via letter dated August 31, 1940?

A. Yes, sir.

Q. And will you indicate the commodities that were included in that order?

A. 20 crates of carrots, 16 crates of celery, 3 crates of cabbage, 5 sacks of beets, the carrots having a gross weight of 110 pounds per crate, celery a gross weight of 60 pounds per crate, the cabbage 110 pounds per crate, beets 100 pounds per sack.

1963 It might also be noted that the record gives us instructions to pick up these various items on Tuesday, September 3rd to be delivered San Francisco before noon on September 5th to American President Lines Pier in San Francisco for "Steamship President Garfield" which was scheduled to sail September 5th from that city.

Q. Now, were both those shipments picked up and delivered in accordance with instructions?

A. Yes, sir.

Q. And all the other shipments that I called your attention to were they delivered to the ships as per shippers' instructions?

A. Yes, sir.

Q. You haven't received any truckload or carload orders from Mr. Husband, have you?

A. No; we have solicited him for them, but have not received them.

Q. Insofar as you know there haven't been any shipped?

A. That is my opinion.

Q. Mr. Hendrickson, there has been some testimony given by Mr. Leland James particularly with respect to the difficulties encountered in interchange of freight. Do you have occasion to interchange any quantities of freight with any other carrier?

A. Yes; we do.

Q. Where is the largest interchange point?

1964 A. Portland, Oregon.

Q. And what is the destination of the freight interchanged at Portland, Oregon?

A. Spokane, Washington.

Q. And what is the average daily volume of that interchange?

A. I would say it was close to 30,000 pounds a day.

Q. Do you find any difficulties such as those enumerated by Mr. James in making that interchange?

A. No.

Q. For instance, Mr. James indicated that there was some difficulty encountered in rebilling. Were the shipments that you referred to rebilled?

A. Yes, sir.

Q. What is your experience with respect to the rapidity with which rebilling can be handled?

A. Well, I know, as a matter of fact, on our trucks coming through Portland to catch the Spokane overnight truck into Spokane, that the turn-over of shipments is rebilled while they are reloading the truck and they are ready, I believe, by the time the truck is ready to leave town.

Q. And how much time would you say was required for reloading and the simultaneous rebilling?

A. I should say about 30 minutes.

Q. In your experience, how much billing can a competent billing clerk do in a day, in an eight hour day?

1965 A. I know the requirement for employment at a large department store at Seattle is that a clerk can do 900 billings a day.

Q. From your experience in the motor freight business can a competent billing clerk match that?

A. I don't know if he can match that or not. I should think he could come somewhere near to it.

Q. How many shipments on the average, in your experience, would have to be interchanged and rebilled at such an interchange point as you have at Portland per truck?

A. I don't believe we would have in excess of 50.

Q. Fifty per truckload?

A. Yes, sir.

Q. That would be on the average?

A. Yes, sir.

Q. Mr. James also said there was a delay involved in rating bills at interchange points. Do you find it necessary to rate bills at the interchange points?

A. No; we get along very well with our connecting line and we trust them and they trust us.

Q. And you have found that it works all right?

A. Yes, sir.

Q. Mr. James also indicated that there is some difficulty in tracing a stray shipment. Do you find any more difficulty in tracing stray shipments over a connecting carrier than over your own line?

1966 A. No.

Q. Is there any different machinery involved in tracing a stray shipment where there is a connection than there is on your own line?

A. No; only that we know at the connection which line is responsible at the connecting point for the loss of the shipment.

Q. If you have a missing shipment either on a connecting carrier or on your line what procedure do your uniformly follow in tracing that shipment?

A. Well, in case of a connecting carrier, taking Portland as a point, we see if his employees when signing our manifest took exception to the fact that the shipment was missing. If he didn't take exception to the fact that it was missing, we would take it for granted we did not lose the shipment, that he lost it, and it was his responsibility in that we had a full signed manifest for the shipment, and it was undoubtedly lost over his line and he would make the search over his own line for it.

Q. That would localize the search?

A. Yes.

Q. Now, in the event that you didn't have an interchange, what is the prodecure?

1967 A. Well, we send tracers to every station involved in the movement of that shipment.

Q. By that, you mean every place that that truck is shown by the manifest to have stopped for unloading?

A. Yes.

Q. And those tracers are sent simultaneously to each point?

A. Yes.

Q. If you have an interchange and you find that the package arrived at the interchange point do you have to go back, then beyond the interchange point?

A. If the package arrived at the interchange point and the con-

necting carrier received it, why, it is his search from then on, not our search.

Q. Have you experienced any difficulty in interchanging with other carriers in the handling of C. O. D. remittances?

A. No, sir.

Q. Have you experienced any delays involved in the settlement of claims?

A. No, sir.

Q. How are claim settlements handled between connecting carriers, in your experience?

A. Oh, at the point of connection the employees of the connecting carrier, in the event that we originated the shipment, would sign our manifest where we turned the freight over to them. If the shipment was damaged prior to their receiving it, they
1968 would take exception to it on the manifest. When the claim was filed it would be our expense. However, if they signed "clear," that the damage occurred after the point of interchange, it was over their line and the claim was for their account they accordingly settle it and pay it. If, however, the damage is of a considerable nature and neither one of us know about it until the shipment has been delivered and the carton opened, we divide the claim on a basis of the amount of revenue that each carrier received from the transportation of the shipment.

Q. That is on the same percentage upon which the through rate is divided?

A. Yes; the same ratio.

Q. Do you find any difficulty in carrying out that method of settlement?

A. No.

Q. Do you find any difficulty in your employees along your line making errors in accepting shipments for transshipment along connecting line carriers?

A. No; we don't. In addition to the literature published by most every carrier on the coast there are a number of routing guides in existence telling you how to route shipments and telling you what line serves that point.

Q. Then you don't experience that at all, do you?

A. No.

1969 Q. Do you experience any difficulty with your connecting carriers in the matter of establishing new through rates?

A. No; we don't.

Q. Do you belong to a tariff bureau?

A. Yes; we do.

Q. And do most all of the carriers belong to one or the other of the two tariff bureaus in this territory?

A. Yes.

Q. And how are rate changes effected, that is, are they effected through the tariff bureau or by individual action of the carrier?

A. Through the tariff bureau.

Q. Do you have any difficulty in securing cooperation among your employees and those of connecting carriers?

A. No.

Q. Do you find it necessary to discipline your employees because of difficulties with the employees of connecting carriers?

A. No.

Q. Do you think that interchange of equipment between connecting carriers where the volume of freight justifies it is feasible?

A. I do.

Q. Why.

A. Well, I haven't seen any reason yet that it is not workable.

1970 Q. Well, what——

A. And the equipment in use on this coast, although there are all kinds of brand names on the front of them, fundamentally component parts of them are the same, and mechanical service can be obtained almost anywhere on any of them.

Q. What mechanical parts of all the equipment is standard?

A. Well, there is one predominant motor in use on this coast, that is the Cummins Diesel engine, and both of the applicants here and ourselves use almost entirely those motors.

Q. What about transmissions?

A. There are one or two brands that are predominant and parts can be obtained for them all over the coast and they are used almost exclusively on this coast.

Q. What are the transmissions?

A. Well, Brownlipe transmissions are very popular on this coast and used by a great many.

Q. What about rear ends?

A. Almost every manufacturer on this coast seems to use Timken products.

Q. What about wheels?

A. Budd wheels are very much in use by the bulk of the carriers on the coast here.

Q. Practically standard?

A. Yes.

Q. Do you find any difficulty in giving consignees infor-

1971 mation concerning shipments that move over connecting lines?

A. No; we don't. In fact, our biggest connection has teletypes in their offices and we have teletype service in our office which is merely a matter of calling them any time we want to know where a shipment is.

Q. Is that method utilized?

A. Yes, sir.

Q. Do you have any difficulty from the misrouting of shipments at interchange points?

A. Very little.

Q. Any more than normal?

A. No.

Q. Any more than you would have on your own line if you interchanged from one truck to another?

A. I don't think so.

Q. Do you have any difficulty in making interchange with interchange carriers arising from the question of having sufficient equipment available?

A. No.

Q. Do you have any difficulty arriving from unusual damage claims caused by interchange at interchange points?

A. No.

Mr. IVERS. You may cross-examine.

Mr. ELLIS. I have just a question or two in connection
1972 with direct.

By Mr. ELLIS:

Q. Something was said about the subject of tire failures, I believe, in your direct testimony. What do you find as to the extent of tire failures, as they may be affected by weather conditions, we will say, in the Sacramento Valley, or other extremely hot areas especially as it may relate to maintenance of high speed in operation?

A. They markedly increase in the summer and it is necessary to decrease the speed during the daytime through this valley or you will burn tires up.

Q. Would that be a serious disadvantage in attempting to maintain a schedule departing in the morning out of San Francisco and headed north particularly during the summer months?

A. Yes; they would be running through the northern valley here during the hottest part of the day.

Q. What speed do you think would be required to avoid excessive tire failures in that section of the run?

A. About 30, 35 miles an hour.

Q. And would that same condition prevail in connection with morning schedules out of Portland likewise coming through the Sacramento Valley during the daytime?

A. Well, they would be through the valley during the night; if they intend to leave there in the morning they would be
1973 through there at night and in here the following morning.

Q. Evening schedules out of Portland would arrive in the valley about what time?

A. They would be coming through there during the warm part of the day.

Q. How much dry ice is necessary in the handling of your normal loads south-bound?

A. Well, in a body that is desired to keep the temperatures down to freezing there must be at least 400 pounds in the body.

Q. And what would be the maximum amount of dry ice that you would ever have occasion to use under the most favorable conditions, weather conditions?

A. 600, I would say, in a body.

Q. And what is the approximate cost of that?

A. 2½ cents per pound.

Mr. ELLIS. That is all.

Chairman TERRIL. Cross-examination.

Mr. SCHAFER. I have a few questions.

Cross-examination by Mr. SCHAFER:

Q. I take it from your testimony, Mr. Hendrickson, that you agree with Consolidated on the matter of the most appropriate equipment for use in transporting freight from California through Oregon into Washington.

A. Yes; I believe in truck and trailers.

1974 Q. But you disagree with Consolidated on the matter of mechanical refrigeration?

A. Well, as I look at it, it is——

Q. Well, you do disagree with them?

A. Yes; I do.

Q. Will you concede that there is room for an honest difference of opinion in both instances?

A. There probably is.

Q. Now, you state that you now own 24 units. Has that changed substantially in the last six months or a year?

A. Well, yes; we have been increasing our ownership and increasing our leased equipment.

Q. How many more vehicles do you have now than you had a year ago, do you know?

A. I believe three trucks and three trailers.

Mr. IVERS. You mean that you own now that you didn't then?

The WITNESS. Own; yes, I believe that is correct.

By Mr. SCHAFER:

Q. And have you leased more trucks and trailers than you had a year ago?

A. No; the total in operation now is only 3 trucks and 3 trailers more than a year ago.

Q. Now, you go to Seattle in 36 hours; that is your regular schedule?

A. Out of here, yes; yes, sir.

1975 Q. That is about 900 and some odd miles?

A. It is 702 to Portland and 181 from the interstate bridge. Let's see——

Q. Well, it is 200 miles from Portland to Seattle?

A. Yes; it is pretty close to 900 miles.

Q. Call it 900 miles. You do an average of 25 miles per hour over that entire route counting all your interchange. 25 times 36 will be approximately 900.

A. Well, I imagine we would average close to that.

Q. You operate by way of Medford?

A. Yes; we do.

Q. Have you been over the new Willamette Pass Road?

A. No.

Q. You can't say, then, whether or not that road would be easily two hours faster?

A. I have understood that it is one to two hours faster.

Q. Now, averaging 25 miles, the same average speed that you maintain between San Francisco and Portland would allow you 28 hours to reach Portland?

A. We figure it takes us 30 into Portland out of here.

Q. And with that you can easily give second morning deliveries at Portland?

A. Yes, sir.

Q. And also second morning deliveries at Seattle?

A. Yes, sir.

1976 Q. But you miss the connection for Spokane?

A. We can make the connection for Spokane, provided we get out of here early enough in the morning; otherwise it is third morning in Spokane.

Q. You have just testified that an early morning departure from San Francisco is of no material good to a San Francisco shipper so for all practical purposes you have third morning service from San Francisco to Spokane?

A. Yes; but we do have trucks leaving here in the morning.

Q. But you have testified that there is no good to a San Francisco shipper——

Chairman TERRIL. I suggest you let the witness answer

The WITNESS. I didn't quite say that. I said it was possible for him to get a rush shipment out, but that the operation wouldn't be any good because you couldn't obtain the freight in the morning.

By Mr. SCHAFER:

Q. Well, that is what I understood also. Assuming that there are some of the carriers operating between Los Angeles and San

Francisco who arrive in San Francisco in the morning now and assuming that they have freight for points north and the Pacific Northwest, why a morning departure would result in better service from Los Angeles to the Pacific Northwest points, wouldn't it?

A. Yes; it would. It wouldn't result in better service to the shipper from Los Angeles to the northwest because our
1977 service would still be equal or superior to them, but it would better your service to the shipper, your particular line.

Q. I agree with you. Now, you testified also about various products requiring different temperatures. Fresh meat, for instance, requires a temperature around 38 to 40, doesn't it?

A. Yes, sir.

Q. How can you control the temperature that close without a thermatically controlled refrigerator unit?

A. Do you know of any fresh meat moving in here out of the north?

Chairman TERRIL. Let's answer the question, please.

The WITNESS. Well, it would be possible to do so by releasing dry ice in the body, dry ice gas, but the dry ice could not come in contact with the meat.

By Mr. SCHAFER:

Q. You don't transport any fresh meat from the northwest into San Francisco?

A. Very little.

Q. Were you present when Mr. Hoffman of Swift & Co. testified to a substantial volume of fresh meat moving from Portland into San Francisco?

A. No; I was not.

Q. Now, the answer to the last question about releasing dry ice into the body, how do you do that so that a constant temperature varying as little as two degrees can be maintained?

1978 A. I doubt if that would be possible.

Q. You don't question that the thermostatically controlled units which are employed by Consolidated Freightways do maintain a temperature within a few degrees?

A. I will agree with you that a thermostatically controlled mechanical refrigerator would be proper on an exclusive meat haul.

Q. Why wouldn't it be proper for maintaining a temperature of, say, zero on a shipment of frozen products?

A. Because we don't trust them yet.

Q. You haven't spent any considerable money developing them as Consolidated witnesses have testified that they have, have you?

A. No.

Q. Now, as one of the faults of mechanical refrigeration you indicated that if the unit should fail the driver would be unaware

of it and drive all day and everything would be ruined. Did you know or do you know whether a telltail light is maintained on the dashboard of the truck to indicate instantly to the driver when the mechanical unit fails, or if the temperature rises above the point set on the thermostat?

A. Well, if a unit of that nature failed—for instance, down in the mountains and the temperature began to rise, the driver's only alternative will be to run for the nearest cold storage and
1979 get rid of his load, or some way attempt to get dry ice, which is not obtainable down in the mountainous districts very readily. When we have a load that is refrigerated with dry ice we know how many days or how many hours that load is going to stay frozen without anybody touching it or anybody paying any attention to it.

Mr. SCHAFER. Now, would you read my question, please?

(The question referred to was read by the reporter.)

Chairman TERRIL. A "yes" or "no" will suffice to the question.

The WITNESS. Yes.

By Mr. SCHAFER:

Q. You know that is true?

A. Yes; I have heard of it.

Q. Now, assuming that the unit fails at a given point in the mountains or any place else that you wish to pick far from dry ice, why do you contend that he would be in any different fix than you would be if you were out of dry ice at that point?

A. Because your unit has quite—it has discontinued compressing; it has discontinued keeping your load cold. We still have our dry ice on the load. It is good for a day or so yet; we can get dry ice.

Q. Assuming that your equipment breaks down, your dry ice continues to be consumed, and if it is broken down long enough you will be out of dry ice at a given point, won't you?

1980 A. Yes; but there is no point where we can't get dry ice to him before the ice that he will have is consumed.

Q. You understand that mechanical refrigeration will continue to function even though the truck is broken down for a day or two? It may run a week in the middle of the desert broken down?

A. I was speaking about a break-down of your refrigerating unit, your compressor, not your motive power.

Q. Well, I am speaking of the comparative advantages of the two systems. In your case, if your truck breaks down and stays there long enough, you will be out of refrigeration, but in Consolidated's case if the truck breaks down and, assuming that the

mechanical refrigeration unit doesn't also break down at that point, it may run for days?

A. It will run as long as they bring gasoline to it and keep the motor running.

Q. That is right. You mentioned various commodities from the northwest such as produce which you do not handle. The facts are that the rates are too low to attract you, is that true?

A. We have rates quoted on it and will handle it, but there are exempt commodity carriers quoting rates anywheres from 40 to 50 percent below ours and we, of course, can't get the business because the shippers will bargain with the exempt com-
1981 modity carriers in the northwest and take the business from us and we have no way of stopping them.

Q. Is the answer then that you are not handling that type of business now?

A. We are handling it in some instances where somebody is in a hurry to get it down here.

Q. Do you get any substantial volume of it?

A. No, we don't. You mean——

Q. Of the type of produce from the Wenatchee and Yakima Valleys and Hood River?

A. Not a great deal; no.

Q. Almost none, is that a fact?

A. I would hardly say that. I know that we handled, I guess 150,000 pounds of it last month.

Q. Why do you think that the applicants in this case would not be attracted by that volume of business? Is it satisfactory to you?

A. Yes. We would take all we could at our rates, but we can't get any more. There are too many exempt carrier commodities in the field taking it away from us.

Q. If they are taking it away from you, you are not getting it?

A. We are not getting any more than I just stated; we can't get any more.

Q. Any that Consolidated or the other applicant here might take away from those exempt carriers wouldn't impair your ability at all, would it?

1982 A. No.

Q. And do you also find the rates on butter and cheese too cheap to attract you at the 62-cent rate that you mentioned?

A. We are higher than certain carriers and, therefore, do not get out of Portland—we don't get our share of the business out of Portland. Out of Seattle we do handle a goodly quantity of that merchandise.

Q. So if these applicants took any of the butter and cheese business presently moving by their own lines or otherwise out of Portland, that wouldn't impair your ability at all, would it? You are not hauling it now, are you?

A. We are hauling some, not very much.

Q. Since the hearing you have obtained the business of Le Tourneau—is that the name—Stockton?

A. Not since the hearing. We have had it for a number of years but he stated that as soon as a through service was inaugurated he was going to quit and go to that other through service. One has been inaugurated, one other than ours.

Q. At Seattle did you hear of any complaint that the local manager of that concern might make with respect to your service?

A. He certainly—I would hear of it through Mr. Lacey. Possibly he could answer your questions, whether or not any complant has been made.

Mr. SCHAFER. Is Mr. Lacey going to testify?

1983 Mr. IVERS. Perhaps; I don't know.

Mr. SCHAFER. Well, I want to know at this time so I will know whether to withhold some cross-examination.

Mr. IVERS. You can go on your own assumption. I am not making any statements as to whether Mr. Lacey is to testify or not.

Mr. SCHAFER. You are not going to be frank enough at this point to state whether or not your case is finished?

Mr. IVERS. I don't know.

Mr. BEROL. May ask the Board to instruct Mr. Hendrickson to be present during the rest of the day so that in order he may be needed for further cross he will be available?

Mr. IVERS. He will be available.

Mr. SCHAFER. If you are not going to require him to appear I would like to have the Board——

Chairman TERRIL. Counsel has indicated he will be present.

Mr. IVERS. He will be here at all times.

Mr. SCHAFER. With that I will reserve further cross of this witness until after Mr. Lacey has testified.

By Mr. BEROL:

Q. I was interested, Mr. Hendrickson, in your testimony regarding the interchangeability of truck and trailer bodies. Now, I want to know exactly what you meant by that. Do you have more than one body for each truck?

1984 A. No; but we have different size bodies on different trucks and we have in that manner a selection for commodities.

Q. Do you have more than one body for each trailer?

A. No.

Q. How long does it normally take to take a body off of a truck?

A. Well, I admit outright that we have—we don't go exchanging a lot of bodies from one trailer to another, but we have trailers that are constructed as your trailers are, 3-axle, 22-foot-body trailers; we have trailers that are 2-axle, 16-foot bodies on them; we have trucks that have a capacity of only 8,000 pounds, short trucks pulling long trailers. Then, we have units that are virtually split in half.

Q. Well, what you meant, Mr. Hendrickson, is that you might interchange the use of any particular truck with any particular trailer rather than that you would change the bodies?

A. Yes; yes.

Q. So that one truck might be one day pulling one trailer and the next day be pulling another trailer?

A. No; you have me wrong entirely. What I was trying to explain was that if we were confronted with the position that we have on hand one night, say, 8,000 pounds of cheese and 20,000 pounds of fish products, we could handle all of that in one over-the-road unit for the reason that we could put the 8,000 pounds
1985 of cheese in a unit with a short truck, such as Consolidated uses in Oregon, and we could put the 20,000 pounds of fish in a trailer with that capacity behind that truck. Therefore, the whole unit could go through without sending two complete units over the highway.

Q. That is right. Now, you didn't intend to convey any impression that you changed the bodies on and off the trucks and trailers?

A. No; we don't change any bodies.

Q. Now, Exhibit 29, the equipment exhibit, I presume, was offered for the purpose of showing the equipment that your company operates at the present time?

A. Yes, sir.

Q. Now, you appeared and testified at the grandfather application of your company, did you not?

A. Yes, sir.

Q. I show you Exhibit No. 20 that was received in evidence in that case and ask you if you recognize that?

A. I don't know what it is all about.

Q. For your information, Mr. Witness, that exhibit was a copy of a certified copy issued by the Secretary of the Public Utilities Commissioner of Oregon showing equipment operated by Hendricks on various dates. Do you now recognize the exhibit?

A. Yes.

Q. Now, calling your attention to page 3 of the exhibit,
1986 being Schedule A, being a page showing the identification plates and bearing the following language on it, "Super-

seding Schedule A, No. 4, dated at Salem, Oregon, this 26th day of February, 1937, by Order of the Commission," I will ask you if that page shows the equipment operated by J. J. Hendricks, as of February 1937?

A. Not all of them.

Q. Why not all of them?

A. Well, as explained by Mr. Ivers here some time ago, we were operating during these various years the equipment of Ora James Mitchell, Pete and John Lubetich, and several other parties.

Q. I mean in so far as any equipment that was operated by you, that was either owned or leased by you?

A. No; it is not complete in that respect.

Q. Weren't you required as of that time under the laws of Oregon to submit to the State of Oregon a list of equipment and obtain identification plates of all equipment operated by you?

A. Not in our—it was not necessary in our own name and plates were obtained for this other equipment—this was all hatched over at Seattle—plates were obtained for this other equipment in the names of those lessees.

Q. Now, in so far as any plates at that time operated by J. J. Hendricks, your predecessor in interest, am I correct in
1987 understanding that as of the 26th day of February, 1937, there were only 11 such pieces?

A. In interstate service, by J. J. Hendricks only 11 pieces?

Q. Yes, sir.

A. I think he had 15 at that time in addition to his pick-up trucks; 16—wait a minute—I take that back. Just a minute. In 1937 during most of the year——

Q. I am talking about the 26th day of February 1937.

A. I would not know offhand now, but my recollection is that there were about 28 over-the-road units besides a group of pick-up trucks in operation at that time.

Q. I am asking you as to whether at that time the State of Oregon issued identification plates to your company in excess of those 11 pieces shown on Exhibit No. 20 for the 26th day of February 1937?

A. They did not issue them to our company but they issued them to the people from whom we had equipment leased.

Q. Now, what is your practice at the present time? Are they issued to your company or to the people from whom you have your equipment leased?

A. They are all issued to our company in our own name at the present time.

Q. Now, will you explain to me, Mr. Hendrickson, as to what was the purpose of Exhibit No. 30?

A. Well, we heard you, Mr. Berol, at Portland, Oregon—
1988 I heard you state that you didn't think that the Los Angeles-Seattle Motor Express came into San Francisco for less than 10,000 pounds. I wish to indicate to you that we do for any quantity.

Q. And that is the purpose of the exhibit?

A. Yes.

Q. Now, Mr. Hendrickson, you testified, as you indicated, in the hearing of your grandfather application, and I show you what purports to be Exhibit No. 1 offered and received in evidence at that proceeding, and ask you if you prepared that exhibit?

A. Yes, sir.

Q. I will ask you if you testified pertaining to that exhibit?

A. Yes, sir.

Q. I will ask you if that exhibit shows shipments by your company for the first six months of the year 1925?

A. It shows only those shipments handled on trucks actually owned and in the name of the predecessor company at that time and does not show any shipments handled on any of the leased equipment at that date.

Q. Now, I show you a shipment in Exhibit No. 1 of that hearing dated January 16, 1935, indicating a shipment from Portland to San Francisco, and I will ask you if, for the first six months indicated in that exhibit, there is another shipment moving
1989 either from Portland to San Francisco or from San Francisco to Portland?

Mr. IVERS. Objected to as incompetent, irrelevant, and immaterial. We are not trying a grandfather case here and what happened in the first six months of 1935 has not anything to do with this case.

Mr. BEROL. Certainly, we are not trying a grandfather case. We have already tried that and the Commission has found that the protestant here is not entitled to serve San Francisco.

Mr. IVERS. All right, let's——

Mr. BEROL. Just a minute. Let me finish.

Now, this witness comes here and testifies about all of the service that is being rendered to and from San Francisco. He testifies that, if these applications are granted as to what effect it might have upon his particular service.

Mr. IVERS. Did you hear any such testimony, Mr. Berol?

Mr. BEROL. I will withdraw the last statement, if I have been in error. I didn't listen to all the testimony of the witness; I was not interested in at all.

Now, I want this record to show as to where, when, and under what conditions those shipments listed in Exhibit No. 30 were developed, and that is all I am trying to do. Now, they offer Ex-

hibit No. 30. I am entitled to cross-examine this witness as to when, where, and how, and under what conditions those shipments were developed.

1990 Chairman TERRIL. The objection will be overruled.

Mr. IVERS. Just a moment. I want to be heard on that.

Exhibit 30 was introduced for a limited purpose. Mr. Berol, in his first question, elicited the limited purpose for which that exhibit was introduced, and the witness answered him completely, that it was only done to indicate that there was no limitation as to the size of the shipment which this applicant came in to or moved out of San Francisco. Now, he says that he is cross-examining on Exhibit 30 by asking what was done in 1935. What has that got to do with the question of 10,000 or more or less?

Mr. BEROL. I think the Board has ruled. I am not going to argue it any further.

Chairman TERRIL. I think the testimony is of some benefit in this record. The objection will be overruled.

Mr. IVERS. Well, I want an exception noted.

Chairman TERRIL. You may have an exception.

Mr. BEROL. Will you read the question, Miss Reporter, please.

(The question referred to was read by the reporter as follows:

"Q. Now, I show you a shipment in Exhibit 1 of that hearing dated January 16, 1935, indicating a shipment from Port-

1991 land to San Francisco and I will ask you if, for the first six months indicated in that exhibit, there is another shipment moving either from Portland to San Francisco or from San Francisco to Portland?")

A. No; there is not, but there is not a complete record of the shipments we handled during those six months.

By Mr. BEROL:

Q. Now, Mr. Hendrickson, do you recall that at that hearing of the grandfather application I questioned you about that very point and you indicated that those were not all the shipments, and that you would prepare a supplemental exhibit showing additional exhibits; do you recall that?

A. Yes.

Q. Do you recall preparing such a supplemental exhibit?

A. I don't, offhand.

Q. Calling your attention to this document, which is Exhibit No. 16 offered and received in evidence in the grandfather proceeding, I will ask you as to whether that is not a supplemental exhibit prepared by you pursuant to my suggestion after cross-examining you on Exhibit No. 1?

Mr. IVERS. My objection goes to all this line of questioning.

Mr. BEROL. It may be so understood.

Chairman TERRIL. You may have the objection and an exception also.

By Mr. BEROL:

1992 Q. That is just a one-page exhibit, Mr. Hendrickson, the one I showed you.

A. Between Portland and San Francisco?

Q. No; as between a number of points.

Mr. IVERS. Now, I am going to object to this on the ground that the question asked by counsel is not a true statement of the facts. In order to get a true statement of the facts it will be necessary to go back to the record.

Mr. BEROL. I will withdraw the question in order to eliminate counsel's objection.

By Mr. BEROL:

Q. I will ask you as to whether or not the document that I show you, marked "Exhibit No. 16," was prepared by you or under your supervision and direction?

A. It appears to be.

Q. I will ask you as to whether or not you recall that as having been offered and received in evidence in the grandfather application as Exhibit No. 16?

Mr. IVERS. I will stipulate it was so offered and admitted.

By Mr. BEROL:

Q. I will ask you as to whether or not shipments shown on that Exhibit No. 16 range in point of time from September 6, 1934, to November 6, 1935?

A. Well, personally, it was two years ago and I don't remember what that thing is about.

Mr. IVERS. I will stipulate that it does.

Mr. BEROL. All right.

1993 By Mr. BEROL:

Q. Now, calling your attention to a shipment, March 11, 1935, of oysters from Portland to San Francisco, I will ask you as to whether Exhibit No. 16 contains any other shipment from Portland to San Francisco or from San Francisco to Portland?

Mr. FARRENS. If the Board please—if I am wrong in my conclusion counsel can correct me—but it seems that this line of questioning can lead only to one purpose and that is a desire on the part of counsel to make a showing that the line for which this witness works, by virtue of its services on June 1, and continuously thereafter, is not entitled to a grandfather-clause certificate.

Mr. BEROL. That is not the purpose of it at all. We tried the grandfather case. The Commission has decided that case; I am

certainly not going to retry it. I am trying this case at the present time.

Mr. FARRENS. Then, I think it may be fairly asked what the purpose is.

Mr. BEROL. The purpose is this: The witness offered Exhibit No. 30. He offered it for the purpose of showing that the Los Angeles-Seattle Express is at the present time handling shipments between points involved in these two applications. Now, I want to know, in addition to what is shown there as the volume of the shipments, how extensive that is, not only today, but how long it has
1994 been going on in the past. I want to know under what conditions and circumstances those shipments and that traffic was developed and that, certainly in so far as this carrier is a carrier claiming to perform a full and adequate service over the territory which is covered by these applications, that is certainly something that the record is entitled to know.

Mr. FARRENS. In view of counsel's statement, now, I want to call the Board's attention to the fact that what you are here examining is the question of the existence of present and future public convenience and necessity for the applicant's proposed service. That doesn't run back into 1935 or 1936 or 1937.

Mr. BEROL. Now, these questions that I am asking——

Mr. FARRENS. Will counsel permit me, please?

Mr. BEROL. Go ahead.

Mr. FARRENS. Now, as to whether or not Los Angeles-Seattle Motor Express had the right to perform service during 1935, '36, '37, '38, and so forth, or at the present time, the record in this case shows that the Interstate Commerce Commission has suspended its order limiting those rights under the grandfather clause and the Board must assume that that was done for good cause, and knowing also that there is a petition for reconsideration in that case the situation precludes any determination by this Board of the question of whether the service rendered in 1935 was rightfully
1995 rendered.

As to the question of convenience and necessity, either present or future, the rendition of service in 1935 is a very remote one, whether the amount of that service was great or small, and I object to the line of questioning, not only this question, but any and all further questions along this line, as being irrelevant, having no bearing upon either present or future convenience and necessity.

Mr. BEROL. Now, have you finished, counsel?

Mr. FARRENS. I have.

Mr. BEROL. I might state and make only two observations in connection with that. In the first place the questioning which I am doing of this witness now is practically completed. This will be

the last question along that line. Secondly, the questions are only preliminary in character, are preliminary questions leading up to what I have already indicated will be the purpose of this examination.

Mr. IVERS. Now, I have already made an objection. I want to add to that objection the questioning that counsel has been pursuing and intends to pursue was answered in so far as it may have been necessary to answer it by the statement that I made of counsel's solicitation before I put this witness on the stand as to what the operating rights, the claimed operating rights, of this carrier were.

I made that statement because counsel had requested that
1996 I make it.

In the second place, since the hearing in the grandfather case many things have intervened, including a BMC–8 application filed for the specific purpose of permitting the continuance of an existing operation, as counsel well knows, and the entire BMC–8 application was tried on that theory. Counsel went through all of this examination that he now proposes to go through at that time where it was probably more proper, at least, than it is here. Counsel also knows that voluntarily this applicant limited its showing in the grandfather case to the traffic carried on four pieces of equipment owned and operated by this applicant's predecessor and voluntarily refrained from putting into evidence any of the shipping documents carried on any of the vehicles under lease to the predecessor of this applicant.

For those additional reasons I am going to object to this line of questioning.

Chairman TERRIL. The Board has already indicated that it would allow the line of questioning, Mr. Berol. The Board also understands that some of this may be very remote in character; but if this was the only remote piece of testimony that was placed in this record, why, we could delete quite a little, I guess, if we would take it out.

Mr. BEROL. I am willing to so stipulate.

Chairman TERRIL. The objection will be overruled. You
1997 may have an exception.

Mr. BEROL. Will you read the last question to the witness?

(The question referred to was read by the reporter as follows:

"Q. Now, calling your attention to a shipment of oysters from Portland to San Francisco, I will ask you as to whether Exhibit No. 16 contains any other shipment from Portland to San Francisco, or from San Francisco to Portland?")

A. No.

By Mr. BEROL:

Q. Now, Exhibit No. 1 and Exhibit No. 16 were the only exhibits offered in that proceeding involving or showing shipments handled by your company during the period indicated, were they not?

A. As far as I know; yes; I don't remember exactly.

Q. Now, Mr. Hendrickson, when did the Los Angeles-Seattle Motor Express first employ a solicitor in San Francisco?

Mr. IVERS: Objected to as incompetent, irrelevant, and immaterial.

Chairman TERRIL: If you are passing to another line of questioning, let's recess at this time, Mr. Berol, if you please.

Mr. Berol: Yes.

1998 Chairman TERRIL. We will recess until 1:30.

(Whereupon, at 1:00 o'clock p. m., hearing adjourned until 1:30 p. m. of the same day.)

1999 AFTERNOON SESSION—1:30 P. M.

Chairman TERRIL. You may proceed.

Oscar M. Hendrickson, having been previously sworn, resumed the stand and testified further as follows:

CROSS-EXAMINATION (resumed)

Mr. IVERS. There is a question and objection pending.

Chairman TERRIL. Let's have the question.

Mr. IVERS. The last question was when it was that solicitors were put on in San Francisco, to which I object as incompetent, irrelevant, and immaterial.

Chairman TERRIL. The objection will be overruled.

A. On their own payroll, I believe it was about two years ago.

Chairman TERRIL. Mr. Hendrickson, will you speak up a little louder, if you can?

The WITNESS. Yes, sir.

By Mr. BEROL:

Q. Now, Mr. Hendrickson, will you refer to Exhibit 30 again, please, and can you tell me from that how much of that traffic was handled by your own equipment and how much of it was interchanged?

A. The entire traffic on Exhibit 30 has been handled by our own equipment, at least a portion of the haul.

Q. A portion of the haul?

A. Yes, sir.

Q. But some or all of the shipments on that a a part of
2000 the trip were handled by a connecting carrier?

A. Not out of San Francisco. We handled the entire traffic out of San Francisco or Oakland, as the case may be, on our own equipment, in or out of here on our own equipment. The only portion of the haul where it would get onto an interchange carrier would be like out of Portland to Spokane or some point up in the northwest, in Idaho or eastern Washington, where we have connecting carriers, but the entire movement on this Exhibit 30 was originated by ourselves either here in San Francisco or Oakland, or originated by ourselves in the north coming in here.

Q. Now, if it was originated by yourselves in the north, was it in all instances delivered by your own equipment in San Francisco?

A. It was brought into this town on our own equipment and delivered on the pick-up service that we have here.

Q. Do you have any connecting carrier in and around San Francisco?

A. You mean going over to the 99 Highway?

Q. That is right.

A. No, we do not have; we bring everything in ourselves.

Q. Have you, in the recent past, had a connecting carrier?

A. Not that I know of, no; we have brought everything in ourselves.

Q. Are you in a position to tell me as to what percentage of
2001 your total traffic is represented by shipments originating in the territory north of Medford to and including Portland, or is destined to that territory on Highway 99?

A. Moving in here?

Q. Yes, sir.

A. In other words, what you want is the percentage of our business that applies to the Bay Region?

Q. That is right—no, the percentage of your total business that involves shipments originating in the Bay area delivered to points north of Medford to and including Portland, or shipments originating in the territory Portland south to but not including Medford and destined to the Bay area? Have you any figures as to what that is?

A. I would estimate in the neighborhood of 20 to 25 percent of our total.

Q. 20 to 25 percent of your total?

A. Yes, sir.

Q. Now, Mr. Hendrickson, how do you make the payment of road taxes to the State of Oregon? Do you do it on a gross percentage basis, or do you do it on a ton-mile basis?

A. Gross percentage.

Q. Are the making of the reports to the State of Oregon under your supervision and direction?

A. Yes, sir.

Q. I have here what purports to be a photostatic copy
2002 your report to the State of Oregon for the month of August 1940, and I will ask you to examine that and tell me as to whether or not you recognize that as being a substantially true and correct copy of a report made by you.

A. (Examining document.) I didn't make it personally, but I see them and sign them before they leave, ordinarily.

Q. Will you examine that document and tell me as to whether you recall that as having been a copy of the report made for the month of August 1940?

A. Yes, it undoubtedly is.

Q. Now, that shows, does it not, a total volume of business for the month of $33,243.32?

A. That $33,243.32 is our portion of the through rate on all the tonnage that we moved. It is not the actual gross figure but it is our portion of the gross.

Q. In other words, it is the revenue accruing to the Los Angeles-Seattle Motor Express?

A. Yes, sir.

Q. Any portion of the total traffic handled that may have been paid to other carriers is not included here?

A. That is correct, sir.

Q. Now, the report shows the revenue between various points, does it not?

A. Yes, sir.

Q. Now, will you check this report with me and see if I
2003 quote the following figures as being correct: Between San Francisco and Portland $925.59?

A. Just a moment. Yes, but I would like to look down further. Yes, sir.

Q. Between San Francisco, California, and Eugene, Oregon, $30.01?

A. Yes, sir.

Q. Between Oakland, California, and Portland, Oregon, $104.70?

A. Yes, sir.

Q. Now, there isn't anything on the report for August of 1940 showing any movements between San Francisco Bay points on the one hand and points north of Medford to and including Portland, Oregon, on the other hand, is there?

A. It wouldn't be on there for the reason that this here would only show the movement between the point of origin here in the

Bay Region to the gateway point where we moved it to a beyond point.

Q. I take it, then, that Portland and Eugene are the only gateway points that you show in Oregon north of Medford, to and including Portland?

A. Salem is in there.

Q. Oh, yes; I overlooked Salem, Oregon. Now, for Salem, you show a gross revenue for the month of $30.89; that is right, isn't it?

A. Yes, sir.

2004 Q. Now, refreshing your recollection with the document I have just shown you, would you still say that the traffic that I asked you about represents between 20 and 25 percent of the total?

A. Well, you asked me about the—if you add all these figures up that you have drawn a red line around, add them all together and get the total of them, I will bet they are very close to 25 percent of the $33,000.

Mr. BEROL. Who has a slide rule?

Mr. SCHAFER. I can't add on a slide rule.

Mr. BEROL. Does the Board mind if I take the time to do this slight bit of calculation?

Chairman TERRIL. We will take a few minutes' recess and you can go ahead and do it.

(Thereupon a short recess was taken, after which proceedings were resumed as follows:)

By Mr. BEROL:

Q. Now, Mr. Hendrickson, during the recess did you and I, with the assistance of Mr. Schafer and his slide rule, perform some hasty mathematics in two directions, or, rather, in two particulars——

A. Yes.

Q. First bearing in mind the questions that I asked you as to the traffic between San Francisco Bay points on the one hand and the points north of Medford to and including Portland on the other hand, was the total volume in dollars reported to

2005 the State of Oregon for the month of August in the sum of $986.49?

A. Yes, sir; but this will not truly reflect what was unloaded in Portland on account of the Spokane freight moving through there, which would be reflected in this computation—I don't know exactly how it does it, but I know that Spokane freight moving through Portland as a gateway wouldn't be in this figure.

Q. We will come to the other computation later.

Now, as to this figure of $986.49 that we developed as to those

points, the percentage of your total traffic for the month it 2.94 percent, is it not?

A. Yes, sir.

Q. Now, we also made a computation, did we not, covering all traffic between San Francisco Bay points on the one hand and the entire States of Oregon and Washington on the other had, did we not?

A. Yes, sir.

Q. And that showed a total in dollars of $6,044.82?

A. Yes, sir.

Q. Or roughly a percentage of the total volume of approximately 18 percent?

A. Well, on your original question you asked me the percentage of the total tonnage. I still state that it is in the neighborhood of 25 percent and not 18 percent. The reason for that
2006 is that—well, we will take as an example a fourth-class rate out of San Francisco to the northwest would be $1.09 on l. c. l. shipments; out of Los Angeles it is $1.40. Well, there is a difference there of at least 30 percent difference in revenue, so in order to find the percentage of our tonnage moving in here you have to add 30 percent to this $6,000 when you compare it with your Los Angeles and you will get over 25 percent of the tonnage.

Q. Well, that is as to all tonnage between San Francisco Bay points on the one hand and the entire States of Oregon and Washington on the other hand.

A. Is 25 percent of our operation.

Q. Is that what you understood my question to be when I asked you as to the amount of your tonnage between San Francisco Bay points on the one hand and the points north of Medford to and including Portland on the other hand?

A. Well, I didn't notice the Portland section of it; I included everything in the northwest.

Mr. BEROL. I think that is all of this witness.

Redirect examination by Mr. IVERS:

Q. Mr. Hendrickson, has there been an unusual shipment of tonnage out of the Los Angeles area recently?

A. Well, yes; it has been much better than it was prior——

Q. What is the cause of that?

A. This armaments program has created considerable
2007 tonnage for us.

Q. Where is that tonnage destined that has originated in Los Angeles?

A. Alaska, principally.

Q. To the Simas-Drake Company for the defense projects in Alaska?

A. Yes.

Q. Mr. Schafer asked you some questions concerning the inability of giving service on the second-morning delivery because of early departure from San Francisco. Up to what time in the day can you depart from San Francisco and make connections for a second-morning delivery in Spokane?

A. Well, not later than noon.

Q. But up to noon you can depart?

A. Yes.

Q. Now, in Mr. Schafer's discussion with you concerning mechanical refrigeration, he asked you about its efficiency in connection with full truckloads. Were your answers given to him contemplating the full truckload movement of single commodities?

A. No; it would be much better—well, in a full truckload it would be good, and if we had a full truckload each way moving the merchandise we would undoubtedly use them, but as I find it on the cold-pack shippers in the northwest, they give us—give the trucks the l. c. l. shipments and the off-route shipments
2008 where the rails won't load a full car from and whenever they get to the point where they can buy a car cheaper than the truck carload rate, they pool it and ship it by rail for the reason that the carload rate used is considerably less than the truck rates now existing in full truckload quantity, so that you just get the odds and ends of a good part of the movement.

Q. Mr. Berol asked you about the change in practice in licensing leased equipment in the name of your company. Was that policy changed due to the difficulties that arose from these previous hearings of having the trucks in the names of the lessor instead of in your name?

A. Yes, sir. Since those one or two hearings in Seattle, and another reason for that is this: During the last two years the reciprocal license laws went in between the various States and in order to comply with that reciprocal law we can't have a party that we lease a truck from down in the State of Oregon licensing his truck in his home State because then he would have to license them in all three States in Oregon. Being our operation, we control the whole thing now and eliminate all the difficulties.

Q. Are there differences in the general characteristics of the south-bound movement of traffic available to common-carrier truck transportation on a north-bound movement as to its continuity, daily continuity?

2009 A. There certainly is.

Q. Will you explain that difference?

A. There is a continuous movement of manufactured products into the northwest from Los Angeles and the Bay area yearround, and the reverse direction this is not true because the northwest

is not anywheres near the manufacturing center that the two territories down here in California are, and there is no back-haul of manufactured commodities. The only thing moving out of up there is the fish products, the few manufactured products, and the farm products for which there is very keen competition for back-haul.

Q. Do you have any difficulty in maintaining the proper place for your equipment in the south sending it down under full load at times?

A. Yes; I can remember an instance of about three months ago there that I sent as many as three empty trucks out of Seattle, heading south-bound in order to take care of tonnage that was piling up on us in the south that we had to get out of there in one day.

Q. Is there a difference also in the amount of tonnage that will fluctuate from day to day in the north as compared to the south?

A. Yes, sir.

Q. And will you explain that?

A. Well, the fresh-fish season starts about in April. When
2010 the first few boats come in, the price begins to drop; we will be swamped with the movement south-bound. Then, as the price levels out the movement goes down. Then, when you get to this point of the year, the fall, the fish movement is discontinued, the fresh fish, and the tonnage drops off considerably, and then the frozen fish starts picking up probably next month. Then, the cold-pack berry industry during the spring months will be very negligible because the pack for the prior year is completed, but when the new pack comes in it is all bunched up at once on you.

Q. Do you have any available freight that is continually available to you to fill in these off-peak periods on these commodities that move in volume out of the north?

A. No; we don't.

Q. Does the movement from the south have those characteristics?

A. They are continually consuming manufactured products in the northwest, and their movement is more level and even the yearround.

Q. Have you had any indication with respect to any of your employees which would indicate that either of the applicants here are interested in going after some of the traffic which you already have?

Mr. BEROL. Objected to as calling for hearsay testimony.

Mr. IVERS. No; I am talking about his own employees. I don't know why that would be hearsay.

2011 Mr. BEROL. Objected to on the further ground that no proper foundation has been laid as to what knowledge those employees may have.

Mr. IVERS. Did you hear the question?

Chairman TERRIL. Read the question, please.

(The question referred to was read by the Reporter.)

Mr. SCHAFER. I join in those objections, both of them.

Chairman TERRIL. The objection will be overruled.

A. Yes. One of our employees has stated to me that he was approached by one of the applicants with a position tendered to him to go to work for him in the solicitation of our fish haul.

By Mr. IVERS:

Q. Now, which of the applicants is that?

A. Consolidated Freightways.

Mr. SCHAFER. And who is that employee?

The WITNESS. H. R. Hines.

Mr. SCHAFER. Now, if the Board please, that type of testimony is obviously inadmissible under the hearsay rule, and inadmissible under the shop book rule.

Mr. BEROL. Under what rule?

Mr. SCHAFER. The shop book rule. It is not a report made in the ordinary course of business. It is inadmissible under any rule. It places upon me the burden of bringing a witness here and finding out who is Hines and whether he asked us for a job or whether we asked him for a job, or whether we

2012 asked him to work for us.

Mr. IVERS. I will consent that the matter may be stricken.

Chairman TERRIL. The answer will be stricken.

Mr. IVERS. The question and the answer.

Chairman TERRIL. The question and the answer will be stricken.

Mr. SCHAFER. I don't know if there is any inference in the record—I have some personal knowledge of the situation.

Mr. IVERS. I overheard counsel's statement which was made off the record. In view of counsel's statement made off the record, I am offering voluntarily to have the question and answer stricken.

Mr. BEROL. Is that the entire line of questioning or just that one question?

Mr. IVERS. Just that one question.

Mr. BEROL. That was only as to what company——

Mr. IVERS. No; no. I mean——

Chairman TERRIL. The question and the answer relating to the solicitation of business from either of the applicant lines; I think that is what they were directed to.

Mr. BEROL. In other words, anything pertaining to whatever

indication he may have had from an employer will be stricken!

Chairman TERRIL. That is correct.

Mr. SCHAFER. If there is an inference in the record, I want to state for the record either sworn or on my oath as an
2013 attorney that I was present when Mr. Hines called upon Mr. Leibold and asked for a job.

Mr. IVERS. Just a moment. If it is going to be on the record, we will have it all on the record.

Mr. SCHAFER. I want it on the record that this hearsay statement that Mr. Hines made to Mr. Hendrickson is untrue.

Mr. FARRENS. Then, I object to withdrawing the question and answer.

Chairman TERRIL. As the record now stands, the questions and the answers are stricken from the record.

Mr. IVERS. Then, counsel's remarks should be stricken.

Chairman TERRIL. The remarks of counsel likewise relating to the same thing will be stricken from the record.

Mr. SCHAFER. All right.

Mr. IVERS. That is all.

Mr. BEROL. There was one item that I meant to develop through this witness that I didn't. Now, if there is any objection to my doing it at this time, I will call him as my witness.

Mr. IVERS. Oh, no; I have no objection.

Chairman TERRIL. There never has been any objection to going back and making six rounds in this hearing, Mr. Berol.

Recross-examination by Mr. BEROL:

Q. Mr. Hendrickson, you were present at the hearing of your BMC–1 application, were you not?

A. Yes, sir.

2014 Q. You offered testimony at that time?

A. Yes, sir.

Q. I show you what my records indicate to be Exhibit No. 10 offered in evidence at the hearing of your BMC–1 application, which is a statement entitled "Net Revenue by Months and Totals by Years Showing Continued Increases in Applicant's Business."

Was that statement prepared under your supervision and direction?

A. Yes, sir.

Q. Do you recall whether it was offered in evidence through you?

A. Yes, sir.

Q. Now, that statement indicates that in the year 1937 your company had a gross revenue of $128,823.98.

A. Yes, sir.

Q. That statement indicates that for the year 1938 your company had a gross revenue of $225,424.72.

A. Yes, sir.

Q. And that for the year 1939 your company had a gross revenue of $322,881.90.

A. Yes, sir.

Q. Has your business been increasing or decreasing since 1939?

A. It has been increasing.

Mr. BEROL. That is all.

Mr. IVERS. That is all.

2015 Chairman TERRIL. That is all, Mr. Hendrickson.

Just a moment, Mr. Hendrickson. Excuse me. The Board had one or two questions listed here that I forgot.

I think you perhaps testified, but I missed it—how many schedules ordinarily are you operating out of the Bay Region or into the Bay Region between San Francisco and Portland?

The WITNESS. There will be one five days a week south-bound, and that one may run as many as five on one night. There is one truck for sure leaving and there is as many as five on certain nights.

Chairman TERRIL. You mean——

The WITNESS. Going through the Bay Region.

Chairman TERRIL. You mean five trucks in one night?

The WITNESS. Yes.

Chairman TERRIL. And what north-bound?

The WITNESS. One daily.

Chairman TERRIL. That is one truck and trailer?

The WITNESS. Yes, sir.

Chairman TERRIL. And I want just a little matter of education, too; you spoke about in the transportation of fresh fish, even though it was in refrigerated equipment, that it would be necessary to have some wet ice. What is the purpose of that?

The WITNESS. Well, wet ice—all fresh fish is packed with wet ice for the reason—for the preservation of fresh fish it is not
2016 only the coldness but it must be kept wet at all times. As soon as it becomes dry, it gets brown—I don't know what you call it—scum or something on it and it is destroyed. It must have water running on it at all times.

Chairman TERRIL. I have one additional question. Do you serve Albany and Roseberg?

The WITNESS. Yes, sir.

Chairman TERRIL. Salem?

The WITNESS. Yes, sir.

Chairman TERRIL. In your transportation of frozen foods, various types, have you had occasion to pick up shipments at Al-

bany—strike Albany—at Salem, Portland, and at other places there in the Willamette Valley?

The WITNESS. Yes, sir.

Chairman TERRIL. In any considerable volume?

The WITNESS. Yes; we do move a sizeable volume out of there.

Chairman TERRIL. Have you transported from Albany and Roseberg and other points in that territory poultry during the shipping season, dressed poultry?

The WITNESS. Yes; we have at times.

Chairman TERRIL. Any considerable amount of traffic in those commodities?

The WITNESS. Not very much in poultry; no. The reason for it is that there seems to be a rate situation in Portland that we can't meet.

2017 Chairman TERRIL. Do you transport any considerable amount of fish that originate on the Columbia River?

The WITNESS. Yes, we do; seemingly the principle fish moving south of the Columbia River is oysters brought in from that surrounding territory. That seems to be the big movement. There is very little salmon shipped down here by truck.

Chairman TERRIL. Do you ever have occasion to pick up from connecting carriers dairy products from coast points, Coos Bay, Marshfield?

The WITNESS. No; we don't; we haven't had.

Chairman TERRIL. None of that traffic?

The WITNESS. No, sir.

Redirect examination by Mr. IVERS:

Q. Now Mr. Hendrickson, in answer to the Board's question, you said one truck north-bound out of San Francisco. Do you have through trucks running available to San Francisco in excess of that one truck?

A. Oh, yes; that one truck will go—no matter if there is 10 pounds here, that truck is going to go through here and pick it up, but in addition to that we move sufficient trucks to handle whatever tonnage is here.

Chairman TERRIL. My inquiry was directed to the regular operation.

Mr. IVERS That is all.

Chairman TERRIL. That is all, Mr. Hendrickson. Thank

2018 you very much.

(Witness excused.)

Mr. FARRENS. If the Board please, at this time I offer for identification the compilation of data of one sheet relating to U. S. Highway 101 from California-Oregon State line to Coquille via Port Orford.

Chairman TERRIL. It will be marked for identification as number 31.

Mr. IVER. Exhibit 31, that is?

Chairman TERRIL. Right.

(Exhibit No. 31 marked for identification.)

Mr. FARRENS. I offer for identification the second compilation entitled "U. S. Highway 42 and 99 from California-Oregon State line to Coquille via Dillard."

Chairman TERRIL. Mark it for identification as number 32.

(Exhibit No. 32 marked for identification.)

2023 Mr. FARRENS. I will call Mr. Hadley.

ROBERT HADLEY was sworn and testified as follows:

Direct examination by Mr. FARRENS:

Q. Will you give your name and your occupation?

A. Robert Hadley, H-a-d-l-e-y.

Q. The acoustics in this room are not any too good. Will you raise your voice so everybody can hear you, Mr. Hadley?

A. Yes. My occupation is Civil Engineering Draftsman.

Mr. FARRENS. I offer for identification at this time a compilation of statistics headed, "U. S. Highway No. 101 from Oregon State Line to Golden Gate Bridge, Sausalito, California."

Chairman TERRIL. Mark them for identification as number 33.

(Exhibit No. 33, Witness Hadley, marked for identification.)

Mr. FARRENS. I also offer for identification a compilation of statistics entitled "U. S. Highways Nos. 99 and 40 from Oregon State Line to Richmond California."

Chairman TERRIL. Mark them for identification as No. 34.

(Exhibit No. 34, Witness Hadley, marked for identification.)

2024 By Mr. FARRENS:

Q. Mr. Hadley, you heard my explanation of the request which I made upon Mr. Day's office for the preparation of statistics relating to the physical characteristics of the highways represented by Exhibits 33 and 34?

A. Yes, sir.

Q. And you were the engineer designated to make that investigation of the state records?

A. That is correct.

Q. Were Exhibits 33 and 34 compiled from official records of the State of California?

A. Yes, sir.

Q. Will you state from what records or sources you took the information shown on these two exhibits for identification?

A. They were from the records of the Department of Public Works, Division of Highways at Sacramento.

Q. And can you tell us up to approximately what date these records were kept?

A. Well, there were various dates, but I would say that the information here was correct up to the fall of 1938.

Q. Why, in the case of Exhibit for identification number 33 do these records stop at the southern extremity of the Golden Gate Bridge?

A. The records of the Division of Highways did not show for the particular data assembled here the statistics for incorporated towns.

2026 Q. So that when you got to the Golden Gate Bridge you couldn't go further, first, because either the Commission records stopped at that point, and second, because you couldn't tell what route would be taken through the cities?

A. That is correct; yes.

Q. That is also the explanation why the southern terminal, as far as the statistics shown on Exhibit for Identification number 34 are concerned is at Richmond?

A. That is true.

Q. Richmond is the northern beginning of a series of incorporated towns, Richmond, Berkeley, Alameda, and Oakland, and so forth?

A. That is correct.

Mr. FARRENS. I offer for identification a compilation of statistics headed "Pacific Southwest Railroad Association, U. S. Highway No. 101 from Coquille, Oregon to Golden Gate Bridge, San Francisco, California."

Chairman TERRIL. Mark it for identification as number 35.

(Exhibit No. 35, Witness Hadley, marked for identification.)

By Mr. FARRENS:

Q. What is Exhibit No. 35 for identification and prepared by whom, Mr. Hadley?

A. Number 35 is a summary, you might say, of Exhibits 33 and 34 and the previous exhibits submitted in regard to the same conditions.

Q. In other words, it is a summary of Exhibits Nos. 31 and
2027 32 and Exhibits for Identification 33 and 34?

A. Yes; that is right.

Q. I call your attention to the fact that Exhibits Numbers 31 and 32 relate in part to curves of four degrees or more, whereas Exhibits for Identification Numbers 33 and 34 relate to curves having a 1,500-foot or less radius, and I note that upon Exhibit for

Identification Number 35 in the same two columns, relatively speaking, you have in parenthesis inserted "1432.47′ for Oregon."

What is the significance of that figure?

A. In the State of California, the highway curves are designated by radius of the curve, for instance, 1,500 feet, and usually an even hundreds of feet, whereas I understand in the State of Oregon they go by degrees of curvatures somewhat similar to railroad curvatures, and the four-degree curve was the nearest even degree to our 1,500-foot radius in California.

Q. And what does the figure "1432.47′" represent in curvature, in degrees?

A. That represents four-degree curves.

Mr. FARRENS. I will offer these three exhibits, 33, 34, and 35.

Chairman TERRIL. Any objection?

Mr. BEROL. No objection.

Mr. SCHAFER. No objection.

Chairman TERRIL. They will be received and marked as
2028 numbers 33, 34, and 35 in evidence.

(Exhibits Nos. 33, 34, and 35, Witness Hadley, received in evidence.)

Cross-examination by Mr. BEROL:

Q. Mr. Hadley, I take it that Exhibit No. 35 is more or less of a summary of the information contained in Exhibits Nos. 33 and 34?

A. And also the similar exhibits bearing on the State of Oregon.

Q. Yes, 31 and 32?

A. That is right; yes.

Q. Now, I notice in comparing the two routes on Exhibit No. 35 that in each of the headings of the comparisons that you made, with the exception of the distance in miles, the total is less for Highways 42, 99, and 40 than it is for Highway 101. Is that right?

A. In all cases except mileage?

Q. Yes.

A. Yes; I think that is correct.

Q. Now, Mr. Hadley, what is the purpose of these exhibits? Are you seeking to draw any comparisons between the desirability of the one route against the other?

Mr. FARRENS. If the Commission please, I object to that question as improper cross-examination. This witness is not informed, I may say for counsel's advice, concerning what is
2029 involved in this case even. He was simply requested to make certain studies without any knowledge as to the purpose for which the exhibits were to be used.

Mr. BEROL. Well, I won't press my question if counsel will agree that I may recall him and ask him that question.

Mr. FARRENS. That is perfectly agreeable.

Mr. BEROL. Then I will withdraw the question as to this witness.

Chairman TERRIL. Very well. Any further cross?

Mr. SCHAFER. I might state that we have a similar exhibit which we will probably offer and which is apparently based on approximately the same information.

By Mr. SCHAFER:

Q. I will ask of this witness whether, on Exhibit 33, there is any way of telling how many miles of 15-foot pavement there is on U. S. Highway 101 over the route covered by this exhibit. I note that the only 15-foot pavement shown is between Willits to Cloverdale, $52\frac{2}{10}$ miles, 15 to 22 feet, all two lanes.

Can you tell how much of that is 15-foot pavement?

A. Not the exact amount that is 15 feet; no, sir.

Q. What do you mean by "travelled roadways"?

A. Well, that is a highway term and there is some divergence of opinion even among highway experts as to just what constitutes travelled roadway. Some say it is the concrete portion;
2030 some include the shoulders and some, in fact, go clear over onto the roadbed. It depends very much on the man that made the survey as to just how he designated it.

Q. Now, on Exhibit Number 34, which covers the other route down 99 and 40 in California, I notice that you show between Redding and Red Bluff 31 miles of 15- to 20-foot highway and 66.2 miles between Willows and Woodland of 15- to 22-foot highway.

Have you been over that road?

A. Not recently; no, sir.

Q. How recently have you been over it?

A. A matter of four or five years ago, I would say.

Q. You have no personal knowledge, then, of the present status of the road?

A. Not of the present status of the road down through the Sacramento Valley; no, sir.

Q. Who do you work for?

A. The Southern Pacific Company.

Q. Oh, the Southern Pacific! You obtained this information from the Highway Department; is that right?

A. That is correct.

Mr. SCHAFER. I have no further questions at this time.

Chairman TERRIL. You will be excused, Mr. Hadley. Thank you very much.

(Witness excused.)

Chairman TERRIL. We will recess for a few minutes, please.

2031 (Thereupon a short recess was taken, after which proceedings were resumed as follows:)

Chairman TERRIL. Be in order, gentlemen.

2048 Mr. FARRENS. If the Board please, at this time I wish to offer in evidence and ask the Board to make a ruling upon Exhibit No. 30 in the Consolidated case, which is the offer of the brief. I am prepared to adduce further argument, if the Board cares to hear it, or will waive the argument if the Board is prepared to rule on it.

Chairman TERRIL. Mr. Farrens, the Board is of a mind to defer the ruling on that until the Consolidated case is reopened. If you don't insist at this time, I would prefer that that be adhered to.

Off the record.

(Remarks off the record.)

Chairman TERRIL. On the record.

Mr. FARRENS. At this time I will offer for identification an excerpt——

Chairman TERRIL. It will be marked for identification as number 36 in this matter.

Mr. FARRENS. I don't believe I had completed identification of it, if the Examiner please.

Chairman TERRIL. Excuse me.

2049 Mr. FARRENS. It is an excerpt from a brief filed by Messrs. Edward M. Berol and Marvin Handler, 444 Market Street, San Francisco, California, Attorneys for Protestant, Oregon-California Fast Freight, now known as Oregon-Nevada-California Fast Freight, one of the Applicants in the pending case, and by Mr. Donald A. Schafer, of 2029 Northwest Quimby Street, Portland, Oregon, Attorney for Protestant, Consolidated Freight Lines, now known as Consolidated Freightways, Inc., and the Applicant in one of these pending cases, in the case entitled "In the Matter of the Application, as Amended, of Pacific Truck Express," and so forth, Dockets Numbers MC–1592 and MC–1592 (Sub. No. 2), before the Interstate Commerce Commission, dated San Francisco, California, December 23, 1938.

Now, this exhibit was offered for identification——

Mr. BEROL. May I interrupt, counsel?

I wonder if counsel would mind stating as to who the other parties party to that brief were?

Mr. FARRENS. They appear on the face of it: A. J. Clynch; Thomas D. Jennings, and B. A. White.

This is the same excerpt from the same brief which was identified in the Consolidated case as Exhibit 30 and which was offered in evidence and with respect to which arguments on objections to admission were made before the Board.

Now, I have no intention to insist upon rearguing the matter or presenting further arguments, but I am prepared to do so if the Board desires further argument on the matter.

2050 Chairman TERRIL. I presume you will have the opportunity to close, Mr. Farrens.

Mr. HOLBROOK. Did you mark this?

Chairman TERRIL. It will be marked for identification as number 36.

(Exhibit No. 36, marked for identification.)

Mr. BEROL. Is the Board waiting on me?

Chairman TERRIL. Waiting, Mr. Berol.

Mr. BEROL. Well, I want to renew the objections at this time that I made the other day to the inclusion of such a document in evidence. I don't want to take a great deal of time in arguing the point, but I do want to call attention to the fact that the law is explicit and it is well settled, and there can be no question as to whether a document of this kind is or is not admissible.

I want to call attention to "Jones on Evidence," Volume I, Paragraph 259, wherein it is said: "The admissions made by an attorney in one action are not admissible in a different action between the same parties."

In other words, even admissions made by an attorney are not admissible in a subsequent action between the same parties. Now, I want to call attention to the fact here that in the first place we have a proffered document that does not constitute an admission; it is merely argument. In the same place we have an

2051 action here that is not an action as between the same parties. Cartainly, under the rule of law that I have just read from "Jones on Evidence," there can be no argument but what a document of the kind that is offered here is inadmissible.

Now, we are engaged here in a proceeding before a federal tribunal. As I understand the rule to be, the federal bodies will apply the law of the particular state in which a proceeding is held. Now, in so far as California is concerned, the law has been well settled as far back as 1863, nor has it been reversed or overruled since that time, and I refer to the case of Wilkins vs. Stidger reported in California Reports under the——

Mr. FARRENS. Would you mind giving the volume?

Mr. BEROL. Volume 22, California Reports, Page 232, and I read particularly from Page 239.

It is there said:

"Proof was also admitted that during the trial before the arbitrators, and in the presence of the defendant, his attorney admitted the correctness of the bill, and insisted on its being included for the full amount in the award of damages against the stage company, and that the defendant did not deny it or contradict his attorney.

The plaintiff also insists that this is evidence of an admission by the defendant, and that his silence at the time is to be deemed an acquiescence on his part.

"Much that we have said on the preceding point will apply
2052 equally to this. The same reasons which show that he was not concluded or estopped in that case apply here, and the same reasons also why his silence should not be deemed an acquiescence. Whether these admissions of the attorney as to the correctness of the bill were made during the hearing of the evidence or upon his argument does not appear, nor do we conceive that it can make a great deal of difference. Admissions of facts by counsel in one suit are not to prejudice the party against whom they are made in another, citing Harrison's Devisees vs. Baker, 5 Littell, 250; Etting vs. Scott, 2 Johns, 156. Admissions in all cases be brought home to the party in the suit against whom they are used, or to some person who is identified in interest with him. It is clear that admissions made by an attorney during the trial of a cause bind the party in that action; that is, they are to be taken as true for all the purposes of that action."

Now, I would also call attention to the case of Habirshaw Cable Company vs. Habirshaw Electric Cable Company, Inc. That is reported in Volume 296, Federal Reporter, at Page 875.

Without burdening the Board or the parties with lengthy excerpts from that case, I briefly want to read from Page 878:

"In addition to other reasons in this record which dispose of such
a contention, we take notice of it because to agree with it
2053 would be to introduce a dangerous doctrine. It is important that in matters of this character, counsel should have full freedom of discussion before the court. The opinion of counsel, whether expressed thoughtfully or casually, cannot be construed into admissions of a fact, and, if counsel has not the opportunity of expressing their views frankly and freely, the court (and the parties) would be deprived of a complete understanding of the meaning and consequences of its decision. Counsel cannot bind clients in this way and claim such a situation is entirely foreign to one where a fact is admitted or conceded. The rule, as stated by Wigmore, Paragraph 2590, 1923 edition, is: 'The vital feature of a judicial admission is universally conceded to be its conclusiveness upon the party making it, that is, the prohibition of any further dispute of the fact by him, and of any use of evidence to disapprove or contract it.'"

Now, I say that if it was a question of a statement of fact made by a party to a prior proceeding, then, that statement of fact would certainly be binding upon that party in this proceeding. Under the doctrine of the law that I have cited, it would not even be binding upon that party in a subsequent proceeding between the same

or other parties. Now, what do we have here? We don't have a statement of fact; we have an expression of opinion. That expression of opinion is not made by the applicant, but is made
2054 by his counsel. That expression of opinion was not made in the proceeding in which we are engaged now, but was made in a prior proceeding. That prior proceeding was not a proceeding even between the same parties as are involved here, but represented different parties altogether.

Now, I say, under these circumstances, you have all of these doctrines. In the first place, you don't have a statement of a fact; you have an argument or an opinion. In the second place, you don't have a statement made by the party but by his attorneys. In the third place, you don't have it between the parties in the same action but between different parties, and in the fourth place, as I say, it is not on the same action but is in a subsequent action altogether.

Now, under all of these doctrines of law—and they are simple and they are elemental—a document of this kind certainly is not admissible. I might state in addition to those, I would also briefly cite the case of Cullinan vs. Mercantile Trust Company, 252, Page 647, which states, "An admission must be one of fact and not a conclusion of law."

Now, obviously, we haven't any statement of facts here. We have argument; we have conclusions; we have opinions. Of all the authorities cited there isn't anything or any theory under which a document of this kind can be admissible.

Chairman TERRIL. Mr. Berol, for the enlightenment of the Board, would you mind stating your views as to whether or not under—I believe it is Rule 13 of the practice before the
2055 Commission—there is anything pertaining to the offer such as is made here?

Mr. BEROL. Rule 13 of the Commission, as I understand it—I am familiar with that rule—pertains to the conditions and circumstances under which evidence may be received, particularly documentary evidence, whether it be matter developed in the case at bar or whether it be from some publication or journal or some other proceeding. There is nothing in Rule 13 that waives the elemental rules of evidence. Rule 13 merely provides machinery for a quick and expedient method of offering competent evidence. Now, there isn't anything in Rule 13 that says if evidence isn't competent it may still be offered in this matter. Rule 13 merely sets up the machinery for expedition and as such, it applies to competent evidence and it in no way waives or changes the normal rules of evidence.

Chairman TERRIL. Do you have anything to offer, Mr. Schafer?

Mr. SCHAFER. No; I join in the objection. It appears clearly inadmissible to me, argument from a previous case which is further

weakened by the fact that the Commission was not convinced it should be admissible as evidence in any respect.

Mr. FARRENS. I imagine that the Board has already been impressed by the fact that the authorities which Mr. Berol has cited make a distinction between expressions of opinion by counsel and statements of fact.

2057 Now, there are contentions in this excerpt, there are questions and answers in the excerpt which in and of themselves, if they were not a matter of inducement necessary for the Board to understand the statements of fact which the excerpts also contain, would not be admissible, but I want to direct your attention to the statements of fact which are not set forth here as statements of opinion. They don't say we believe or that we contend or anything of the sort; they are stated as bald statements of fact.

On Page 2 this fact is stated:

"In almost every case where the witnesses were asked if second-morning delivery would satisfy them if it were given by any other truck carrier, the answer was in the affirmative."

That is a statement of fact as to the testimony.

On that same page the statement of fact is made, reading as follows: "As to the rehandling en route, there was the testimony of Protestant J. A. Gritsch of the Oregon-California Fast Freight, that hundreds of shipments are transferred daily with negligible damage claims." That is no statement of opinion; that is a bald statement of fact.

Next following is another statement of fact: "Furthermore, the testimony of many of the shipper witnesses was that rehandling from the pick-up truck to the line-haul truck or for

2058 transfer from Portland to points north of Portland, did not damage the commodity." That is a statement of fact; that isn't a statement of opinion.

Next following is another sentence——

Mr. BEROL. Just a minute. I don't want to interfere with counsel's argument. I think that counsel is a little bit unfair that before the admission of an exhibit he is reading it into the record.

Mr. SCHAFER. I join in that. That is the second time that that device has been used to get something into the record before a ruling of the Board. It is clever, I will admit, but I think it is unfair.

Mr. FARRENS. I am not trying to be clever.

Mr. SCHAFER. If we were to be given the same opportunity to read your arguments in other cases in other briefs——

Mr. BEROL. Just a minute. The Board has a copy of the exhibit before it exactly as counsel has. Counsel can point to the page and to the lines. I will ask the Board to admonish counsel to refrain from getting indirectly into the record an exhibit the

admissibility of which we are engaged in arguing at the present time.

Mr. FARRENS. I don't think this Board entertains the idea I am trying to be clever. It never occurred to me that I was.

I will call the Board's attention finally to one more sentence which I will not read, but it begins: "No shipper
2059 witnesses testified—"

Chairman TERRIL. In the last paragraph, Mr. Farrens?

Mr. FARRENS. Yes.

Chairman TERRIL. I have located the place.

Mr. FARRENS. Now, those I don't think anybody would contend are other than pure bare statements of fact. They are not stated as opinions but statements of facts.

Now, counsel cited to you a case, the last one cited to you from 252—the volume is not before me—but he stated that that case held that the admission of counsel must be an admission of fact, and if the law which he has cited to you is sound, then an admission of fact by counsel is an admission against interest which may be introduced in evidence.

Again in Volume 296, Federal 875, from which counsel read to you, it related to an expression of an opinion by counsel, and the court said, "The opinion of counsel, whether expressed thoughtfully or casually, cannot be construed into admissions of a fact," and, therefore, is not admissible, so that the very case which counsel cites as supporting his contention here support my contention concerning the admissibility of this exhibit.

Again, in the first case which was cited from the California reports, Volume 22, at page 239, the court says:

"Admissions must in all cases be brought home to the party in the suit against whom they are used, or to some person
2060 who is indentified in interest with him," and recites 1 Phillips' Evidence, C. H. & E.'s Notes, 479, 480, in support of that. How better, may I ask this Board, can an admission of facts such as I have just pointed out to the Board is contained in this exhibit, be better brought home to the party in suit against whom it is used, or to some person so identified in interest with him, than to show, as this exhibit shows, that it is a contention based upon statements of fact set forth in a brief filed by counsel for these applicants in a case relating to traffic over the same highway? If that isn't bringing it home, it is impossible to bring anything home.

Now, I haven't the benefit here of a library, but I asked Mr. Hennessy, who is studying law, if he wouldn't try to find me something in point.

Chairman TERRIL. Let's interrupt just for a few minutes. The Reporter has been going at high speed here for a while.

You don't mind, do you, Mr. Farrens?

Mr. FARRENS. Not at all. It is a good place to interrupt. I have ceased to discuss counsel's cases and am about to discuss my own.

(Thereupon a short recess was taken, after which proceedings were resumed as follows:)

Chairman TERRIL. You may proceed.

Mr. FARRENS. I want to state for the record that, in
2061 reading as I did in my argument portions of Exhibit 36 for indentification, there was no thought in my mind of clever or sharp practice, and no thought in my mind of doing anything to which objection could be raised.

I think the Joint Board will appreciate, if you stop to consider for a moment, that even if the Board rules against the admission of this Exhibit 36 it still remains a part of the record and goes back for Division 5 to determine whether or not the ruling is correct, and Division 5 would have to read the exhibit in order to determine whether the ruling is correct, so that I was not getting anything into the record that wouldn't come to the attention of both the Board and Division 5, in any event.

Mr. SCHAFER. Perhaps, I owe counsel an apology when I referred to another occasion when the same practice was followed when counsel, in the course of argument on the resolutions yesterday, commenced reading the points contained in the resolutions into evidence. If I am wrong, I will apologize to counsel.

Mr. FARRENS. I don't think counsel was trying to hurt my feelings in making the statement.

Now, in respect to the law, I wish to cite from Wigmore on Evidence, Third Edition, Section 1063 (a):

"In the first place, an attorney is not a person whose ad-
2062 missions may be used against the party-client, except so far as concerns the management of the litigation; and this principle applies equally to the quasi-admissions here concerned and to the solemn admissions already discriminated (ante, Sec. 1057, post, Sec. 2594).

"The reason for this limitation is that the attorney's admissions can affect his client so far only as he has authority to act as agent in his client's place (on the principle of Sec. 1078, Post). That authority, so far as it is to be implied from the mere general appointment as attorney, and has not been enlarged in the particular case, extends only to the management of the cause. But, conversely, all his admissions during that management, including the utterances in the pleadings, do affect the client."

Reading from Section 1069 of the same authority (3): "By privity of interest and by agency (Secs. 1076—1087) the party's rights may in the substantive law be affected by the acts of another

person, and thus the other person's admissions may equally be available evidentially." Section 1078 of the same authority (2):

"An attorney is an agent to conduct litigation; his admissions, therefore, are under certain circumstances receivable; this application of the principle has already been examined (ante, Sec. 1063)" which is the first section which I read to you.

Now, I asked Mr. Hennessy if he could find me a single
2063 buggy case and here is the result:

"Beyer Co. v. Fleischmann Co., 15 F. (2d) 465."

This was a patent infringement case. The particular question upon which the court was ruling was whether a party in the then pending litigation was such a party to previous litigation between other parties in a previous case as would be bound by the judgment in that case. The admissions of the attorney were offered for the purpose of proving whether or not he had admitted, as a fact, that his client in the pending case was also a party in the previous case and his evidence or his statement in the previous case was offered for the purpose of proving that this particular client of his was an interested party in that previous litigation.

The syllabus says:

"Statement of counsel for defendant in former infringement suit, admitting another's participation in defense held admissible in subsequent suit against such other on question of conclusiveness of judgment."

Now, I will read to you from the opinion:

"Objection is also made to the admission in evidence of the opening statements of counsel for the Baking Company in the former case on the ground that they were incompetent because of a purely hearsay nature.

"Under different or the usual circumstances this latter objection might present a question of substantial merit.

2064 "But, taken in connection with the admitted use of the Beyer Company's product, its natural interest in the first case, and the presence at the trial of Beyer, the president and sole owner of that company, the statements were entitled to some consideration in determining whether in fact Beyer was an interested party to that proceeding. Of like consequence, perhaps with added force, because of a common interest, to say the least, was the use of the word 'we' by counsel for defendant, followed by the explanation that he referred to the Beyer Company. We do not think that the definition of that particular reference had the effect of excluding the Beyer Company from the meaning of the term as thereafter used, except where expressly included. As to the sufficiency and effect of the evidence, it is enough to say that the facts referred to, in our opinion, constitute a showing of such participation by de-

fendants in the former proceedings as to make the judgment therein binding upon them."

Now, that is the end of the quotation. We have here a situation where I am offering in evidence not the opening statement of counsel, but the closing statement of counsel which is a written brief filed of record with this Commission. The matter is before the same tribunal. The only difference between this federal decision and the present case is that in the one instance it was an oral
2065 statement of counsel made at the beginning of the case, the former case, and in the present instance it was a printed statement of counsel filed as a final statement or argument in the case.

I agree with and find no room to quarrel with the authorities cited by Mr. Berol to the effect that the opinion of counsel, particularly as it was expressed unofficially and off the record, as it might be in some conversation in an office or in the street would not be admissible. I might say after the trial of a certain case that I thought my client had a poor case, or I might say before the trial of a case that I thought my client had a poor case. That would be inadmissible as an expression of opinion; that doesn't go to facts. The court might have full knowledge of the fact and reach a different conclusion or a different opinion on the subject. But here we have a case on that final page of the two pages copied, statement after statement of facts—not expressions of opinion—by counsel charged with the management of the litigation on behalf respectively of Oregon-Nevada-California Fast Freight and Consolidated Freightways, Inc. They don't dispute that and they say they stand behind the statements made in this exhibit, and so long as there is that privity of interest, then the statements of fact of counsel in a brief submitted to the Interstate Commerce Commission on behalf of the same clients are certainly admissible as admissions contrary to interest in the present case.

2066 I am a little astonished, may I say in conclusion, at the efforts to keep this out of the case. Both of these gentlemen are practitioners admitted before the Bar of the Interstate Commerce Commission; both of them are here representing the same clients. It is their privilege, if they wish, to put the parties on the stand to show that the facts stated by them to have been true in December 1938 have changed since that date, but any objection which is directed, as many of the objections were, to the date on which this statement was made by counsel go only to the weight of the evidence and not to its admissibility, and furthermore, as I have called to your attention, I have asked a number of the shipper witnesses which they have produced on the stand in this case, whether there is any change in the conditions with

respect to their shipping services rendered by these applicants before or after December 1938. Thank you.

Mr. BEROL. Now, if the Board please——

Mr. FARRENS. Now, just a minute. I waived opening argument on this matter. Counsel has been heard; I have made my closing argument and it is up to the Board to determine how many arguments they are going to listen to, because I will insist on closing.

Mr. BEROL. I would like to be heard.

Chairman TERRIL. You may be heard, and if a matter is presented that is open to reply, Mr. Farrens will be accorded
2067 an opportunity.

Mr. BEROL. Now, let me comment first briefly upon Mr. Farrens' astonishment that we should object to the offer of anything that he may choose to offer as a part of this proceeding. Let me say in that connection that I consider it my duty first to my client and secondly to the Commissioner, as a member of the Commission Bar, and I presume like a category similar to that which a lawyer occupies before a court, as an officer of the Commission, I consider it my duty to object to anything that may be offered by anybody that is not proper.

Now, discussing further the particular case upon which Mr. Farrens apparently relies as supporting his position that this proffered exhibit is properly admissible, what were the facts in that case? Based upon what Mr. Farrens said, they were this: There was an infringement suit pending. Apparently one of the parties to that suit had been a party to a prior suit and the attorney who represented him in the prior suit stated what? Stated that he had been a party to the prior suit. Also, from Mr. Farrens' discussion of the case—and I haven't any recollection of having read the case, it appears that one of the questions, probably the important question in that case was as to whether or not that defendant, having been a party to the prior suit, and the court having entered a judgment in the prior suit, as to whether that defendant was bound by the prior suit, apparently the doctrine of res
2068 adjudicata being pertinent somewhere. Now, obviously, there is a statement of fact, the important issue being as to whether this defendant, the Beyer Company, had or had not been a party in the prior suit, the theory before the court being that obviously if he was a party to the prior suit he was bound by that judgment. Now, that, insofar as an attorney is concerned, is merely a statement of fact for the purpose of ascertaining to-wit: To what extent that particular litigant in that instance was bound by the judgment of the court in the prior case.

Now, there isn't anything of that kind involved here. We are not concerned with a statement of fact. The proffer here isn't made for the purpose of showing that I, as an attorney represent-

ing my client, admitted that the Oregon-Nevada-California Fast Freight was a party in a prior suit or that he may have been bound by a prior statement. The thing that we have involved here is a statement of opinion by counsel in writing a brief as to what his opinion of the facts was. Counsel in writing that brief merely attempted to summarize his opinion as to what the facts were. There isn't anything here in this proffered exhibit that states specific things.

Now, I was interested in counsel's statement, and I thoroughly agree that an attorney is the agent of his client. Now, let's follow that through for a minute and see where it leads us. If I here am the agent of my client, I am employed here as an
2069 agent in this particular case. If I was the agent of my client in a former case I was employed in that former case. I was employed as an agency and the principle of master and servant, or the normal doctrines of agency prevail. Now, if I was employed as agent in that case I was agent, and as an attorney I was authorized to conduct the cause or the litigation to which counsel referred. Now, let's follow that through by way of analogy. Suppose that a client employs me as an attorney to represent him in a proceeding where he is accused of murder and suppose after consultation between me and that client I appear with that client before the Bar of the court and on behalf of that client enter a plea of guilty, suppose after due cause, the client, having paid his retribution to the State, some six or eight or ten years later, if you please, is again accused of murder and is brought before the Bar of the court, is it contended here for a minute, or can it be contended that because I was employed as counsel in a prior case and because in the prior case in the conduct of that litigation I was authorized to and did enter a plea of guilty on behalf of that client, am I then in the subsequent proceeding still bound by that plea of guilty? Am I in any way, as agent, authorized at that time to enter a plea of guilty on behalf of that client? Is that client in any way in the subsequent proceeding bound by my entry of a plea of guilty in the former proceeding? Why, cer-
tainly not. And that is what counsel is contending here.
2070 Now, counsel very adroitly—and I will gladly and quickly contend counsel's ability and adroitness in handling the matter in that regard—attempted to cite the law or to use the law that I cited and bring it within facts that are not consistent with that law; namely, he says that I stated in arguing law that a statement of fact is admissible. I call attention to several features, first, insofar as that may be sound law, it applies only to statements made in the same case between the same parties. It has no application as to subsequent cases between different parties. Furthermore, I again state that under no condition can a brief written

by counsel be deemed to be a statement of fact; it is an argument; it is a summation of his opinion.

Again I want to call attention of the Board to the very fundamental doctrine that governs such cases when the court in the Habirshaw case that I cited stated that "The opinion of counsel, whether expressed thoughtfully or casually, cannot be construed into admissions of a fact, and, if counsel has not the opportunity of expressing their views frankly and freely, the court (and the parties) would be deprived of a complete understanding of the meaning and consequences of its decision." Now, again bearing in mind the relationship between attorney and client, if I, as an attorney, or Mr. Farrens, as an attorney representing a client in a particular cause, must, in the prosecution of that cause, give
2071 consideration to, possibly two or three or ten years from now, the statements that I may make in connection with the briefs be brought back into some subsequent litigation, then, I say that the courts, Commissions, and the parties may very well be deprived of the true opinions and arguments of counsel at that time, and what is the representation by counsel except, first, to elicit and produce the full facts, and secondly, to argue such facts before a court or a body or a commission, or whatever the case may be.

Now, we have here a situation of opinions and arguments made by counsel in a proceeding two years ago, in a proceeding involving different parties, in a proceeding not involving the same state of facts as are involved here, and under no consideration under neither doctrine nor law cited by counsel can such a proffered exhibit be admissible evidence in this proceeding and to receive it will be directly contrary in the face of well-established law.

Mr. FARRENS. Apparently counsel and I are in agreement that insofar as opinions of an attorney are concerned, they are inadmissible. Apparently counsel concedes that statements made as statements of fact by an attorney are admissible. Taking the criminal case, let us assume that instead of murder it was kidnapping, punishable under a provision of a State Code and punishable under the Federal Kidnapping Act, that the client was tried first in the State Court and there counsel represented to the
2072 court either by an opening statement or by brief that his client was a minor, that when it came to trial under the Federal Act he represented that his client was over 21 years of age; would there be any questions, in the light of the authorities which I have cited, where the showing was that counsel was engaged in the management of the litigation under the state prosecution, that his statement that his client was a minor could not be introduced in evidence in the subsequent federal case? I don't think there is any. Now, if the Board finds that there is a mere statement of

opinion and nothing else in this exhibit, they will reject the evidence. If the Board finds that the exhibit contains statements of fact, then, I think, under the law which I have cited to you the evidence is permissible and competent.

Chairman TERRIL. The Board will rule that the exhibit offered will be refused and you are allowed an exception to the ruling of the Board.

Mr. FARRENS. Now, if the Board please, at this time I desire to offer for identification a copy of a letter written on the stationery of Consolidated Freight Lines, Inc., dated October 14, 1938, signed by Consolidated Freight Lines, Inc., Leland James, and addressed to Mr. E. S. Carter, et al., the original of which document was received as Exhibit 12 in I. C. C. Case No. MC–42487.

Chairman TERRIL. Are you finished with your offer, Mr. Farrens?

2073 Mr. FARRENS. I have asked for identification of the letter.

Chairman TERRIL. It will be marked as Number 37 for identification.

(Exhibit No. 37 marked for identification.)

Mr. FARRENS. I now offer the document.

Mr. SCHAFER. I will object to it on the general grounds that it is incompetent, irrelevant, and immaterial, for the further reason that it represents only the deliberations of Mr. James some several years ago when the freightways idea was but a thought in his mind, an immaturely developed thought; furthermore, that the proper use for this letter was as made by Mr. Farrens when Mr. James was on the stand. Mr. James was on the stand and testified. Mr. Farrens produced this letter and confronted Mr. James with it and used it at that time for what probably is a proper purpose, to impeach the credibility of a witness by calling his attention to prior inconsistent statements. For that purpose as it was used at that time in the hearing it probably was appropriate, but——

Mr. FARRENS. Well, my answer to that simply is, that if it was ever appropriate in this case it is still appropriate in this case and that I am at liberty to offer it in this case. As a matter of fact, wasn't it offered at that time by——

Mr. SCHAFER. It was offered and received in the O. N. C. case.

2074 Mr. FARRENS. I may be confused about that. Just a second. Yes, it was offered and received in the Consolidated case, and what I intended to do was to get the numbers correct here. Yes, it was offered and received in the Consolidated case. It is now my intention it be identified and offered in the O. N. C. case.

Mr. SCHAFER. Well, it is up to Mr. Berol to argue it then.

Chairman TERRIL. Any objection on your part, Mr. Berol, to the receipt of this letter?

Mr. SCHAFER. In your record.

Mr. BEROL. I think that I will rest in the matter. Whatever the parties may decide to argue on I will not interfere with.

Mr. SCHAFER. These are the facts; this letter has already been admitted in the Consolidated case and is now being offered in your record.

Mr. BEROL. Well, I don't see how I can very well object because I offered it in the other case myself. I don't see under what basis I am going to object in this one.

Mr. SCHAFER. Just so you understand the facts.

Chairman TERRIL. In view of that, it will be received in evidence in this matter and marked as Exhibit No. 37.

(Exhibit No. 37 received in evidence.)

Mr. FARRENS. That is all I have.

Mr. ELLIS. At this time I will offer in evidence an exhibit
2075 consisting of extracts from the testimony of Witness J. A. Gritsch before the Interstate Commerce Commission in Docket No. MC-17593, Sub. 1, being on the application of Pierce Auto Freight Lines, Inc., and consisting of pages 369 and 370 of the transcript in that proceeding.

Mr. BEROL. I will ask that a ruling be withheld until I have an opportunity to examine the exhibit.

Chairman TERRIL. Mark it for identification as number 38.

(Exhibit No. 38 marked for identification.)

Mr. BEROL. Has that exhibit been offered?

Chairman TERRIL. It has just been marked.

Mr. BEROL. I am ready to state my position.

Is counsel offering it?

Chairman TERRIL. Does the same condition exist as to all of these exhibits?

Mr. ELLIS. I have only one other.

Chairman TERRIL. Let's have the offer of all of them.

Mr. ELLIS. I also offer in evidence an exhibit consisting of extracts of testimony of Witness Joseph A. Gritsch before the Interstate Commerce Commission in Docket MC-68618, Sub. 1, application of Los Angeles-Seattle Motor Express, Inc., from page 485 to 492, inclusive, of the official transcript in that proceeding.

Mr. GLANZ. In connection with this exhibit 39——

Mr. ELLIS. May it be marked 39 for identification?

2076 Chairman TERRIL. It may be marked for identification as "number 39."

(Exhibit No. 39 marked for identification.)

Mr. GLANZ. In connection with Exhibit 39, I believe I discussed this matter with Mr. Berol the other day and he indicated that he might be agreeable to a stipulation at the proper time and I think this is the time: That this same testimony was introduced in the

record in the Colleti case by copying the testimony of Mr. Gritsch, reducing it to exhibit form, and introducing it in the Colletti case as an exhibit.

Am I correct, Mr. Berol?

Mr. BEROL. That is correct; it may be so understood.

Mr. GLANZ. Thank you very much.

Mr. ELLIS. I now offer Exhibits 38 and 39 for identification in evidence.

Mr. BEROL. I might state, if the Board please, that if counsel will identify these exhibits as to the time and place at which the testimony was offered, I will have no objection.

Mr. ELLIS. As to Exhibit 38, it is my understanding the testimony was given at Medford, Oregon, about October 1937. As to Exhibit 39, I would be glad to have——

Mr. IVERS. January 30, 1940, at Seattle, Washington.

Mr. SCHAFER. May we have one point clarified? In offering this, is it offered in the Oregon-California record alone or is it offered——

2077 Chairman TERRIL. Everything. This record is being received and treated as applicable to the particular case that it applies to.

Mr. SCHAFER. Obviously, the testimony of Mr. Gritsch at a prior hearing cannot be binding upon Consolidated.

Mr. ELLIS. There has been no objection.

Chairman TERRIL. It has been offered.

Mr. SCHAFER. You say it has not been offered?

Chairman TERRIL. It has been offered.

Mr. ELLIS. There has been no objection.

Mr. SCHAFER. Well, I certainly say that the simplest rules of fairness would not permit it in evidence against Consolidated Freightways. They have no control over Mr. Gritsch or any statements he may make.

Mr. HOLBROOK. Mr. Gritsch is here if you want to call him.

Mr. ELLIS. We are not considering that Consolidated Freightways is bound by any statement Mr. Gritsch may have made.

Mr. SCHAFER. That is all right.

Mr. ELLIS. We do contend we have the right to use any expression of opinion that Mr. Gritsch may have made as an experienced truck operator——

Mr. SCHAFER. So long as it is understood.

Mr. ELLIS. That supports our theory of the case.

Mr. SCHAFER. Well, it is going to be separate briefs. So

2078 long as it is understood that Mr. Gritsch's prior inconsistent statements are not going to be used in a brief of the Consolidated case——

Mr. ELLIS. I do not say that I do not intend to use them in the brief of the Consolidated case. They may have application there. I don't contend it is binding upon Consolidated Freightways, naturally.

Mr. BEROL. May I make a request at this time with respect to Exhibit No. 38, the testimony having been given in October of 1937; I was not present at that hearing. I would like to request of Mr. Ellis that he accord me the courtesy of loaning me the transcript of that hearing for two purposes, first, to check the accuracy of Exhibit 38, and secondly, for such other purpose as I may see fit——

Mr. ELLIS. I will be glad to do that.

Mr. BEROL. Thank you. May I have them now?

Chairman TERRIL. Would you like the Board to defer the ruling on these until you have had such an opportunity, Mr. Berol?

Mr. BEROL. No; I am willing that the Board may rule now. I am certainly, by my statement, not seeking to cast any inference that Exhibit No. 38 was not correctly copied because if it was done under the supervision of either Mr. Ellis or Mr. Pierce I am willing to stipulate it was accurate. I was probably more pri-
2079 marily interested in the undisclosed rather than in the disclosed reason.

Mr. SCHAFER. Now, before we leave this point, I think we are on a fundamental rule of evidence there. If this party wants to call Mr. Gritsch as his witness and put expert testimony in the Consolidated record, after qualifying Mr. Gritsch—and I will concede that he is qualified—why, then, I will have an opportunity to cross-examine him.

Mr. ELLIS. I concede your right to call Mr. Gritsch to give rebuttal evidence, but I don't see that it has any bearing upon what Mr. Gritsch testified in that proceeding.

Mr. SCHAFER. I think it is so elementary that I am going to stand on my objection.

Mr. FARRENS. If the Board please, all counsel could ask Mr. Gritsch would be to submit the copy of his testimony tomorrow and ask him if he did so testify.

Mr. SCHAFER. If he is going to qualify him as a witness in this proceeding, he can testify as of this date, not as of a year or so ago.

Mr. ELLIS. I am offering it to show what his opinion was as expressed at that time on a particular operation under consideration and the facts then present.

Mr. SCHAFER. I am not further arguing my objection; I have already argued it.

Chairman TERRIL. Does your objection run to both 38 and 39, Mr. Schafer?

2080 Mr. SCHAFER. That is correct.

Chairman TERRIL. The Board is of the opinion that your objection is well taken. The exhibits will be received as applicable to the application of the Oregon-Nevada-California Fast Freight only in this proceding.

Mr. ELLIS. May the record show an exception?

Chairman TERRIL. You may have an exception.

Mr. ELLIS. Those are the only two exhibits I have at this time.

Mr. FARRENS. I am curious about the Board's ruling there. So the record may be clear, is that because of the fact that as far as the Consolidated case is concerned, the witness has not been qualified as to the expertness of the opinion which he then expressed?

Chairman TERRIL. No. The Board feels that it isn't proper to bind the Consolidated in a matter in which they were not previously interested.

Mr. FARRENS. Well, again I am in doubt about the thing because, of course, Consolidated cannot be bound by any testimony that is introduced by an adverse party. The adverse parties can be bound by it, but the protestant, for example who offers it, can be bound by the testimony but he cannot bind the other side, so that if the Board is basing their ruling on the thought that there is any binding of the applicant by evidence offered by pro-

2081 testants, it is an unsound ground.

Chairman TERRIL. I don't think we need any further argument. The Board is willing to stand by its ruling in the case.

(Exhibits Nos. 38 and 39 received in evidence.)

That completes your offer, Mr. Ellis?

Mr. ELLIS. Yes.

Chairman TERRIL. I believe we will adjorn at this time.

What time of the evening would be agreeable to all concerned?

Mr. BEROL. Off the record.

Chairman TERRIL. Off the record.

(Remarks off the record.)

Chairman TERRIL. We will adjourn until 7:00 o'clock.

(Whereupon at 5:00 o'clock P. M., hearing adjourned until 7:00 o'clock P. M.)

2082 EVENING SESSION—7:00 P. M.

Chairman TERRIL. Come to order, please.

Mr. ELLIS. Mr. Pierce.

A. C. PIERCE was sworn and testified as follows:

Direct examination by Mr. ELLIS:

Q. Your name is A. C. Pierce and you are President of Pierce Auto Freight Lines, Inc.?

A. Yes.

Q. And that is a corporation of the State of Oregon, is it, Mr. Pierce?

A. Yes, sir.

Q. And in your capacity as President are you the active managing officer of the company?

A. I am.

Q. Will you state briefly the type of operation which your company conducts and the territory served and routes traveled?

A. We operate between San Francisco and Portland, serving all intermediate points with daily fixed termini service with the exception of Sundays and holidays. We travel the following routes: Starting from Portland to Junction City, Oregon, U. S. 99 east; Junction City, Oregon, to Red Bluff, California, U. S. Highway 99; Red Bluff, California, to Davis Junction, U. S. Highway
2083 99 west; Davis Junction to San Francisco, U. S. Highway 40, and from an alternate route Davis Junction to Sacramento, U. S. Highway 40; from Sacramento to Stockton, U. S. Highway 99; from Stockton to Oakland, U. S. Highway 50; and also into San Francisco via 50 and 101.

We also have anywhere for hire rights within a radius of 50 miles of Medford, 50 miles of Grants Pass, 50 miles of Roseberg, and 25 miles of Portland.

In addition to that we have rights to handle household goods as a specialty between Portland and San Francisco.

In intrastate operation we serve between Portland and Junction City on the one hand to all points between Junction City and Medford on the other hand; and from Junction City, all points between Junction City and Medford on the one hand to all points between Junction City and Portland, full local service between Medford and Junction City, no local service between Junction City and Portland.

In addition to that we have unrestricted anywhere for hire rights within the State of Oregon with no restrictions as to commodities. We also have certain rights to serve off-route points in fixed termini service such as Glendale, Riddle, Glendale, and Umpqua, Oregon.

We also have the right to serve north-bound from Junction City, Oregon, to Portland, via U. S. Highway 99 on restricted commodities.

Q. Do you at this time have any application pending for
2084 the use of the route via Klamath Falls and the new Willamette Highway as an alternate route?

A. Yes; we filed an application some time ago with the Interstate Commerce Commission for the right to use the new Willa-

mette Highway Pass via Klamath Falls and Weed with no service to intermediate points between Weed and Goshen.

Q. Are you a party to any tariffs providing for through routes and joint rates to any territory beyond Portland?

A. Yes; we have joint rates with many carriers beyond Portland, in the Seattle territory, Spokane and eastern territories, such as Pendleton and as far as Idaho.

Q. Do you have such joint rates to serve any territory west of Portland?

A. I am not certain.

Q. Do you have such joint rates in connection with any carriers operating south of San Francisco?

A. Yes; we have joint rates with Valley Motor Lines and California Motors. There may be others, but I don't know for sure.

Q. Are you actively engaged in the transportation of freight, not only for your own route that you described, but in connection with the connecting carriers both north of Portland and south of San Francisco?

A. Yes; we also have connections with carriers operating
2085 from Grants Pass over to the coast, down through Carson City, and accept freight destined to those points.

Q. How long have you personally been engaged in the trucking business, Mr. Pierce?

A. I started in the trucking business in 1922. At first I was engaged in the local transfer business in southern Oregon, and in 1924 I started the first fixed termini operations between Portland and Medford *and Medford* which was continued until 1927.

In 1928 we started a weekly operation between San Francisco and Medford which was——

Q. Who do you mean by "we" when you use the term "we"?

A. More properly I, the Pierce Auto Freight prior to the time it was incorporated. It was operated for one year. From 1929 to date we have operated a continuous daily fixed termini schedule between Portland and southern Oregon and extending our operations into San Francisco in 1935.

Q. At that time what was the situation as to the movement of tonnage?

A. About 80 per cent of our tonnage moved from Portland to southern Oregon points, leaving but 20 percent load factor north-bound. Due to the unbalanced tonnage we found it necessary to secure additional north-bound tonnage in order to make for a more balanced operation. In an effort to accomplish this we had
2086 for several years endeavored to secure tonnage from California points but without success.

Q. Did you have any arrangements at that time with any connecting carrier serving between Medford and San Francisco Bay?

A. Yes; we had joint rates with the Oregon-Nevada-California Fast Freight. However, they had a close working arrangement with the Consolidated Freight Lines and we received but very little freight.

Q. Did you at the time that condition prevailed have any discussions with the management of Oregon-California Fast Freight concerning an improvement in those conditions?

A. Yes; I had many discussions with Mr. Gritsch.

Q. What were the results of those discussions?

A. It was his advice to me that——

Mr. BEROL. May I have the time and place fixed?

The WITNESS. Over a period of several years prior to 1935, and his advice to me was that due to the close working arrangement or agreement with the Consolidated Freight Lines, he was not in the position to give us any freight other than what might be routed our way.

By Mr. ELLIS:

Q. Was he interchanging freight with Consolidated Freight Lines at that time?

A. Yes; he was.

Q. Where did these conversations with Mr. Gritsch take place?

A. I would say mostly in Medford, possibly in San
2087 Francisco; I couldn't say for sure as to the latter point.

Q. In the light of that situation, what action did you take?

A. At that time there wasn't any other carrier that I could make a connection with operating on a daily basis between San Francisco and Medford, so I found it necessary to extend our operations into San Francisco, which we did in the year of 1935.

Q. Were those operations embraced in appropriate applications to the Interstate Commerce Commission?

A. Yes; they were. However, we did purchase the operating rights of Moran Brothers, and claimed grandfather rights under their operations, but at the same time filed a BMC–8 application to prove necessity and convenience, and in 1937 a hearing was had in Medford before the Interstate Commerce Commission on these two applications.

Q. What was the result, or what action did the Joint Board which heard the case take on such application so far as the California portion of your application was concerned?

A. The California portion of our application was denied by the Joint Board in its entirety.

Q. What view did you take of that report and what action did you take as a result of the adverse recommendation on the California corporation?

Mr. BEROL. I have no objection to the witness testifying as to what action he took. I do object to his testifying
2088 as to what view he took because it is incompetent, irrelevant, and immaterial.

Mr. ELLIS. I will reframe my question.

By Mr. ELLIS:

Q. What action did you take as a result of the recommended or proposed report of the Joint Board concerning your California operation?

A. After reading the order——

Q. Well, I am asking what action you took?

A. The order was received on February 5th and required cessation of operation, I believe, on March 3d, and operations were discontinued on that day.

Chairman TERRIL. What year was that, Mr. Pierce?

The WITNESS. That was in March 1938.

By Mr. ELLIS:

Q. What next transpired in connection with the report?

A. Approximately one year later, on February 17, 1939, Division 5 of the Interstate Commerce Commission reversed the Joint Board's order, proposed order, stating that we had proven necessity and convenience on California operations, and upheld our—the Joint Board's decision as far as our Oregon operation was concerned.

Q. Upon receipt of that order did you take any action looking toward the reestablishment of service to San Francisco?

A. Yes; we did. We immediately started making arrange-
ments for the reestablishing of our operations into Cali-
2089 fornia. However, before arrangements were completed we received notice that Consolidated Freight Lines, among others, had petitioned the Interstate Commerce Commission for a rehearing on our case, and due to their application, or petition, rather, for a rehearing, we delayed the starting of our California operations until the Commission rendered a decision as to whether this petition would be acted, whether they would act favorably upon this petition.

Q. What action was taken on the petition for rehearing and when?

A. It was on July 8th, 1939, that they granted the request for the rehearing.

Q. And did you entirely give up the California service at that time or what did you do?

A. Well, we did not. Due to the length of time between the filing of the petition for rehearing, and the action taken by the Interstate Commerce Commission being so long, we established a weekly schedule on June 14, 1939, and operated same up until June 24, 1940, at which time we inaugurated a daily operation, which is in operation on a daily basis at the present time.

Q. Has hearing been had on the rehearing order of the Commission?

A. Yes; the rehearing was held in Portland on October 27th and 28th, 1939.

2090 Q. At that time was your claim of public convenience and necessity to serve San Francisco opposed by either of the applications in this case?

A. Yes; Consolidated Freight Lines and others very vigorously opposed our application, or rather, the consideration at the rehearing.

Q. Has any action been taken by the Joint Board hearing that case on rehearing?

A. Yes; on April 2, 1940, the Joint Board filed its report upholding all rights that had been previously granted, and in addition granted us rights to serve off-route points in Oregon and the right to handle household goods as a specialty.

Q. Were exceptions filed by protestants to that proposed report?

A. Yes; Consolidated Freight Lines and others took exceptions to the proposed order on May 27th, and so far there has been no final determination on our case by Division 5.

Mr. BEROL. Mr. Ellis, might I ask a question at this point in order to clarify the record?

Mr. ELLIS. Yes.

Br. BEROL. Now, Mr. Pierce, in response to counsel's question you indicated that Consolidated and others appeared at a rehearing and on May 27, 1940, filed exceptions.

In view of the question of your counsel I will ask you as to whether or not the applicant, the Oregon-Nevada-California

2091 Fast Freight, appeared as a protestant or otherwise upon the rehearing of your application?

The WITNESS. They did not.

Mr. BEROL. I will further ask you as to whether the Oregon-Nevada-California Fast Freight was a party to exceptions filed in May of this year to which you testified?

Mr. ELLIS. I am willing to stipulate that he was not.

The WITNESS. I am not certain. I wouldn't want to answer until I checked.

Mr. BEROL. If counsel has the facts and he is willing to stipulate that it was not, I am satisfied.

Mr. ELLIS. I am confident it was not, and I will so stipulate.

By Mr. ELLIS:

Q. In 1935 when the situation which you have described confronted you, would you have extended your operations into California had you been able to find a connecting carrier giving daily service, with which you could have interchanged traffic?

A. No; I would not have.

Q. Now, why do you make such a statement?

A. Because it was my opinion that a more profitable operation could be conducted through a joint operation with some carrier operating between San Francisco and southern Oregon points, meaning by that, making possible a more balanced operation for our Oregon operation and at the time a more balanced operation for the California carrier.

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Q. Now, have your operations, particularly during the early period of operations, all the way from Portland to San Francisco and San Francisco Bay furnished you any information which would verify the propriety of that position or opinion?

A. I don't know that——

Mr. SCHAFER. Could I hear that last question again, please.

(The question referred to was read by the reporter.)

Mr. ELLIS. Let me strike that question. I will ask it again.

Mr. BEROL. Just a minute. It has been answered. The witness stated he didn't know.

The WITNESS. No. I started to state that I didn't understand the question.

Mr. ELLIS. He didn't understand my question. I will ask it this way:

By Mr. ELLIS:

Q. What did the results of your operations when first extended to California indicate to you as to the desirability or otherwise of the through service?

A. You said what did it indicate?

Q. Yes; what did it indicate to you? You stated a few moments ago that you wouldn't have made the extension had a connecting carrier been available to you. Now, I am asking what the results were of your attempt the first two years and four months of operation when you did extend that service?

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A. Our operations were not as profitable as we would have liked; in fact, they were operated at a loss for a portion of the time.

Q. What were the factors, the practical operating factors or traffic conditions, which resulted in that loss or lesser income?

A. Always on any extension program you go through a stage which becomes very expensive in making extensions, in establishing terminal facilities, and during the expansion program of any truck operation into a new territory it takes considerable time to build

up a reasonable amount of tonnage. Then, in addition to that, we were confronted with, or rather, had found, after some time in operation, that the equipment we were operating was not of the most desirable type, at least, for a profitable operation.

Q. Now, are you at the present time operating a through service from Portland to San Francisco six days a week?

A. We are.

Q. About when was that service inaugurated on a six-day-per-week basis?

A. June 24th this year.

Q. Now, what was the situation which brought about that increase from one trip per week to six trips per week?

A. Due to not receiving a final decision from Division 5,
2094 we didn't consider it good business to make a heavy investment in equipment until our order became final. However, after the present applications in these proceedings were filed we felt that it was necessary to protect our interest in the case to establish a daily operation and take that chance as to whether our—what the final result might be on our order.

Q. And are you giving that service on a daily basis at the present time?

A. We are.

Q. Just in general terms, would you tell us what the results of that operation have been, without giving detailed figures?

A. You mean since June 24th?

Q. Yes, sir.

A. We have gradually built up a small tonnage, and for the month of July, I would say, the north-bound tonnage from San Francisco, and what we received from other connecting carriers at San Francisco destined to Oregon points, amounted to about 7 or 8 tons. However, in the past——

Q. Per day?

A. Per day; yes. In the past 30 days, or just a recent check, that has increased to about 9 ton per day.

Q. What facilities have you used in the Bay area in securing that tonnage?

A. Valley Express act as our agent in the San Francisco
2095 and Oakland territory and take care of our pick-ups and solicitation.

Q. And do you likewise receive from them as a connecting carrier any traffic originating at points south of the Bay area?

A. Yes; we do at various points down in the valley and from Los Angeles and the San Joaquin Valley.

Q. Could you state approximately what portion of the total tonnage you are now handling per day that originates at points south of San Francisco Bay?

A. I don't know for sure what it is, but it would no doubt be approximately 3 to 4 tons per day. That would include Valley Express tonnage originating in the Bay district as well.

Q. Have you, Mr. Pierce, analyzed the tonnage data which has been presented in this record by the two applicants, Consolidated Freightways and Oregon-Nevada-California Fast Freight?

A. I have.

Q. What comments have you to make concerning the handling of that traffic by an operation such as is proposed in this case, particularly with respect to whether or not it would result in a profitable operation?

A. Referring to Exhibit 10 introduced by Mr. James——

Chairman TERRIL. That is in the Consolidated case?

2096 The WITNESS. In the Consolidated case; yes. I find that the tonnage south-bound amounted to, which he interchanged with Oregon-Nevada-California Fast Freight 13 ton, an average of 13 ton per day, in the Marshfield territory an average of 3½ ton per day.

Mr. BEROL. What is that 13 ton?

The WITNESS. It is from Portland. I assume it included all points from the northwest. It is not broken down to any other points other than Portland.

Now, I have another exhibit introduced by Mr. James which is also marked Exhibit 10 showing the north-bound tonnage. I assume that is an error as far as the exhibit number is concerned. Would they be the same?

Chairman TERRIL. Just one moment.

Mr. SCHAFER. It is all one exhibit.

Chairman TERRIL. It is all one exhibit.

The WITNESS. Oh, I see. Referring to the north-bound tonnage they show a movement to the Seattle territory of 12 ton per day and to the Spokane territory 12 ton per day, and to the Portland territory 17½ ton per day and to the Marshfield territory approximately 2 ton pe[illegible]. These are average daily tonnages.

By Mr. ELLIS:

Q. How do the figu[illegible]h you have referred to from the Consolidated ton[illegible] its compare with similar exhibits

2097 presented by Ore[illegible]da-California Fast Freight?

A. They are very, [illegible]milar, very close.

Mr. BEROL. Do we deduc[illegible] that that both applicants are truthful?

The WITNESS. Yes, sir.

Mr. BEROL. Thank you.

By Mr. ELLIS:

Q. What period of time is covered by the Exhibit 10 of Consolidated to which you referred?

A. It covers a period from June 19th—strike that—it covers a period from——

Q. One year ending June 30, 1940?

A. That is correct.

Now, in both Mr. James' and Mr. Gritsch's testimony they estimated, if their applications were granted, each of their companies would receive approximately 50 percent of the present tonnage now being handled. On that basis I have made some computations which I would like to give at this time.

Mr. BEROL. Now, I would like to correct the witness in that regard. I remember that testimony very well and I think the witness is in error, and as long as he is making computations I think the computations will be in error, so I would like to suggest to counsel and witness my recollection of the testimony so that the witness' computations may be directly in line with the testimony.

2098 As I recall it, the Witness James did testify he expected to receive 50 percent of the traffic handled by both carriers in both directions. The Witness Gritsch, however, testified that he expected to handle two-thirds of the north-bound tonnage and one-third of the south-bound tonnage that is now being handled by the two carriers.

Now, bearing in mind that the testimony shows the north-bound tonnage of both carriers is 80 percent of the total, the south-bound tonnage of both carriers is 20 percent of the total, it would obviously be something other than 50 percent of the total, as the witness has indicated. I am merely suggesting that in the event the witness may want to revise these computations because I feel in all fairness to him I shouldn't permit him to go on with computations based upon an erroneous understanding of the testimony.

Mr. SCHAFER. I want to object to this line of testimony on the grounds that the witness has admitted, or at least, he has stated, that he does not question the accuracy of the exhibits. The exhibits are in evidence. Computations can as well be made in briefs as they can here by this witness. We can all get out our pencils and divide these figures. It will add nothing whatever to the evidence in this case.

Mr. ELLIS. That is not what we propose to do. We are merely taking these exhibis as a basis of fact on which
2099 to work out some additional information not directly in the record.

Chairman TERRIL. Do I understand that the purpose of this testimony is to show the opinion of this witness as to what would happen as to that traffic?

Mr. ELLIS. As to the results of the operation.

Mr. BEROL. As to whether it would be profitable or not?

Mr. ELLIS. Based on Mr.—at least on Mr. James' opinion on how the traffic would be divided between the two carriers.

Chairman TERRIL. Did I also understand you to say that your computations were based upon the Witness James' testimony or upon all the testimony in this record?

Mr. BEROL. He said upon the testimony of both witnesses, Witness James and Witness Gritsch.

The WITNESS. The computations I have here are based upon Mr. James' testimony wherein he estimated the tonnage would no doubt be divided 50–50. Then, I have a different computation which would show what the net result would be for each carrier to handle all of the tonnage in their respective territories which they are applying for.

Mr. SCHAFER. I must renew my objection. That can be done as well in a brief.

Chairman TERRIL. I think it might be done in a brief,
2100 but I think it would be very proper, in view of the qualifications of this witness, to accept his opinions in this matter.

The WITNESS. On the San Francisco-Seattle schedule northbound there is a daily average of 12 ton. One-half would amount to 6 ton. On the north-bound, or rather, south-bound the division is not made as to Seattle traffic, and I have allowed 2 ton coming from Seattle as south-bound tonnage, or a total of 8 ton. I have taken the third class rate to that territory which I consider conservative due to the "grasshopper rates" break-down, cheaper rates on quantity lots, and on that basis there would be a net revenue of $204.80.

By Mr. ELLIS:

Q. Per day?

A. Per day on that particular portion of the tonnage.

Mr. SCHAFER. That is the Seattle portion?

The WITNESS. That is correct.

Mr. SCHAFER. North-bound?

The WITNESS. 6 ton north-bound, 2 ton south-bound, using the same basis of rate.

Chairman TERRIL. Mr. Pierce, for an unenlightened Joint Board member, what is a grasshopper rate?

The WITNESS. It is a recent scale of rates established by the California Railroad Commission—possibly that isn't the
2101 correct term, but it is what some truck operators use. It

is a tonnage reduction scale starting with 2,000, 4,000, 10,000, 20,000.

By Mr. ELLIS:

Q. Named after its jumping proclivity, is it?

A. I presume so.

Chairman TERRIL. Excuse the interruption.

The WITNESS. I have used a base cost of 30 cents per mile.

By Mr. ELLIS:

Q. Why have you used that 30 cent basis?

A. (No response)

Mr. SCHAFER. What was the third class rate to Seattle upon which you based your computation, Mr. Pierce?

The WITNESS. $1.28. Multiplying 30 cents by 1,800 miles you have a total cost of $540 for a round trip.

Mr. BEROL. May I interrupt, Mr. Pierce? I am very much interested in this testimony and I will admit I got lost some place and I think we would save time if I can understand it from the beginning.

Now, do I understand correctly that you are now using a basis of 6 ton from Seattle?

The WITNESS. North-bound.

Mr. BEROL. 6 ton north-bound to Seattle?

The WITNESS. And 2 ton south-bound on a base rate of $1.28 for the entire tonnage.

Mr. BEROL. 2 ton south-bound?

The WITNESS. Correct.

2102 Mr. BEROL. Now, let me ask one question and maybe I will be finished: In view of the fact that the applicant, Consolidated, does operate, propose to operate to and from Seattle and in view of the fact applicant, the Oregon-Nevada-California Fast Freight, does not propose to operate beyond Vancouver, Washington, do I understand correctly that this computation in this testimony applies only to the applicant, the Consolidated Freightways?

The WITNESS. Just a moment, now, and I will tell you.

Mr. ELLIS. I think it is obvious that particular computation applies only to Consolidated Freightways. Some of the others may apply to the O. C.

The WITNESS. Yes; you are correct, Mr. Berol, that is my purpose.

Mr. BEROL. Thank you.

Mr. SCHAFER. I might say if I could interject a question right at this point to show the fallacy of that computation.

Mr. ELLIS. I think that would be better on cross-examination than at this time. We can't make much progress here if there are going to be continual interruptions.

Mr. SCHAFER. If the Board please, it is well settled by testimony in this case that these trips tie in with Consolidated's present operations at Klamath Falls and the computation assumes that we are going to operate a schedule through from San
2103 Francisco to Seattle and will not put any other revenue on the schedule after we get on to our present operations.

Now, there is north-bound traffic from Klamath Falls into Portland and there is also Portland and Seattle traffic which has been testified would be put on this schedule in the event there is any slack in it, or any space in it, so for all Mr. Pierce can tell from his computation there may be another $200 worth of revenue on this schedule and, therefore, it is so highly conjectural as to be worthless.

Mr. IVERS. Well, if the Board please, counsel's objection to this amazes me. I understood that they were going to run a hot shot schedule that was going to give this very fast—extremely fast service to the Bay district, that they weren't going to stop enroute and pick up a lot of pick-up shipments at small intermediate points and drop shipments at every small intermediate point.

Now, counsel comes along and says this is going to be a local service.

Mr. SCHAFER. Not at all.

Mr. GLANZ. Let the record show I am still here, and I concur with Brother Ivers in his remarks.

Chairman TERRIL. All right, the Joint Board will now take a hand.

Will you proceed with your examination in the manner in which you started? If there is an objection to a question
2104 it will be ruled on at that time.

Mr. ELLIS. Thank you, your Honor.

Mr. SCHAFER. I am objecting to further conjectural testimony of this sort, as having no value whatsoever as evidence.

Chairman TERRIL. The testimony will be received in the record for what it is worth as long as it is applicable to this proceeding.

By Mr. ELLIS:

Q. Proceed, Mr. Pierce.

A. On the basis I have outlined the loss for that trip would be $335.20.

Q. Per day?

A. Per day per trip.

Q. And you have assumed, have you, that only one schedule per day would be run between San Francisco Bay and Portland to take care of that traffic?

A. This is San Francisco and Seattle.
Q. And Seattle?
A. That is true.
Q. Now, what is your next computation?
A. From San Francisco to Spokane.

Mr. BEROL. Mr. Ellis, could I ask that you specifically state for the record when the witness leaves the computations pertaining to Consolidated and makes computations that will affect Oregon-Nevada-California Fast Freight?

2105 Mr. ELLIS. I will try to remember that.

Mr. BEROL. Thank you.

The WITNESS. From San Francisco to Spokane, taking one-half of the north-bound tonnage which amounts to 6 ton, again taking 2 ton as a south-bound movement, which is approximately one-third of the northwest tonnage south-bound, makes a total of 8 ton round trip between Spokane and San Francisco on a base rate of $1.55 amounts to $248.

By Mr. ELLIS:

Q. And what is that base rate?
A. $1.55 per hundred pounds which is a third class rate. I have taken 1,492 miles, 30 cents, amounts to $447.60, or a net loss of $199.60 on that trip.

Now, I want to mention that that particular schedule is used as a local schedule when it leaves Spokane going back to Portland and from Portland to Klamath Falls. It only acts as a California schedule when it leaves Klamath Falls in the morning arriving in San Francisco or Oakland in the evening. Therefore, instead of using the total round trip mileage we have only used the one way mileage plus the distance between Klamath Falls and San Francisco.

From San Francisco to Portland one half of the tonnage north-bound would be 8½ ton, south-bound, using up the balance of the tonnage which is shown on Exhibit 10, would be 2½ ton or a total of 11 ton for the round trip based on the third class rate of

2106 $1.26½ would amount to $278.30 revenue.

Mr. SCHAFER. The witness is reading too fast for me. I am still putting down figures from Spokane. May I have that last statement read, please?

(The answer referred to was read by the reporter.)

The WITNESS. Are you ready?

Mr. SCHAFER. Yes, sir.

The WITNESS. Round trip mileage between Portland and San Francisco is 1,432 miles again based on a 30-cent cost per mile would amount to $429.60, or a loss on that trip of $151.30.

Mr. BEROL. How much?

The WITNESS. $151.30.

Mr. BEROL. Per trip?

The WITNESS. Per trip.

On the San Francisco-Marshfield schedule south-bound 50 per cent of the tonnage would be approximately 1¾ tons, north-bound 1 ton, or a total of 2¾ tons using a third-class rate of $1.31 would amount to $72.05 revenue. The round-trip distance between Marshfield-Klamath Falls, 1,076 miles, using 30 cents cost per mile would amount to $322.80 or a loss on that trip of $250.75.

The total operating loss of these four schedules just mentioned would amount to $926.85.

By Mr. ELLIS:

2107 Q. Would that constitute the daily loss based on your computation?

A. Off the record.

Chairman TERRIL. Off the record.

(Discussion off the record.)

Chairman TERRIL. On the record.

By Mr. ELLIS:

Q. Were the tonnage figures that you used daily tonnage?

A. Yes.

Q. Then, would that result in your final figure being a daily loss?

A. Yes, I believe it would.

Chairman TERRIL. A daily loss or a round-trip schedule loss, Mr. Ellis, which?

Mr. ELLIS. It would be the same thing, as I understand it.

The WITNESS. I believe it would. I am not positive, Mr. Ellis.

By Mr. ELLIS:

Q. You were using, were you not, the daily traffic in each direction?

A. Correct. Then, I have made a computation——

Q. Just a moment before leaving that. Will you tell us why you used the figure 30 cents as the average truck-mile operating cost?

A. Our company and the Consolidated Freight Lines
2108 were in proceedings in an Oregon case involving the Ben Phillips Transportation Company, and we had an opportunity to compare the cost of operation per mile, and this figure is approximately 5 cents less than the figure which they had at that time which I considered a very conservative figure as far as the cost per mile. Our cost at that time was 39 cents per mile.

Q. Now, have you made any computation of results on any other basis?

A. Yes; I have. If Consolidated were to extend their operations into San Francisco and were to handle all of the tonnage

which amounts to 60 ton on a division of $14.80 per ton their net revenue would be $888.

Q. Why did you use that particular division?

A. I arrived at that basis first by referring to the Oregon-Nevada-California Fast Freight Exhibit No. 8, introduced by Mr. Gritsch, and also his Exhibit No. 7, and by computing the daily average tonnage with the revenue which he shows, I arrived at $10.50 per ton revenue. That likewise checks out with our experience in the Pierce operation as far as the revenue from Medford on into Portland, and I also am acquainted with the division sheet basis which you use between the respective companies as well as our own company which shows about 60–40. Those are not—I am not giving those as accurate percentages, but they are very
2109 close, and the difference would be the $14.80 per ton.

According to Mr. Sneed's testimony, he is only—their company is only able to load an average of 10 ton per day—correction—I will strike "per day"—10 ton on a truck and trailer unit on account of the nature of the freight being rather bulky. Handling 43½ ton, which is the north-bound tonnage, based on 10 tons for a truck and trailer unit, it would take 4 units to handle that traffic, or 4 round trips from Medford or Klamath Falls to San Francisco. A distance of 3,200 miles again on a basis of 30 cents per mile would amount to $960 cost or a net of $72 per day were they to handle the entire tonnage.

Q. Does your computation include only the earnings and costs between Medford and San Francisco?

A. That is true, on the latter basis.

Q. Go ahead.

A. Now I have a computation here——

Mr. Berol. In other words—let me get that straight—according to that last computation one carrier handling all the traffic between San Francisco and Medford will lose $70 a day?

The Witness. $72.

Mr. Berol. $72 a day. That then should be—if I understand the testimony correctly—the experience of the Oregon-Nevada-California Fast Freight today, shouldn't it?

2110 The Witness. No, it doesn't work out that way at all, Mr. Berol, for this reason: That the Oregon-Nevada-California Fast Freight has other operating rights and other tonnage which works in with this tonnage.

Mr. Berol. Well, I don't want to interrupt counsel's cross-examination. I am only asking to make sure that I understand the witness' testimony in a feeling that it will save time in the long run.

Now, as I understood it, under your computations one carrier handling all the traffic that is available today between the San Francisco and the Medford area will lose $72.40 per day; right?

A. That is—yes, that is right, and if you care to I can explain the reasons now or later.

Mr. BEROL. At your convenience.

By Mr. ELLIS:

Q. Explain it now.

A. The reason for that, Mr. Berol, is the fact that Consolidated would be operating the majority of that equipment empty southbound. This computation is based on from Medford or Klamath Falls and they would be running practically empty one way.

Q. Why do you say it would be running practically empty one way in the case of Consolidated?

A. Well, these exhibits show the tonnage which they have been securing from the north, from points beyond Medford and
2111 Klamath Falls over a term of months or years, and that coupled with the fact that there isn't a great deal of tonnage moving out of southern Oregon proper and, likewise, they are not serving intrastate in the State of California, and do not have an opportunity to pick up and deliver intrastate within the State of California, no tonnage from northern California to San Francisco.

Q. Have you made any computations applying directly to the operations of Oregon-California-Nevada Fast Freight?

A. Yes; I have.

Assuming that the Oregon-California-Nevada Fast Freight were to handle all of the tonnage beyond Medword or Klamath Falls into Portland, there is 43½ ton north-bound, 16½ ton south-bound, or a total of 60 ton, and Oregon-California-Nevada Fast Freight propose to use dual axle semi units between—or beyond Medford and between Medford and Portland, according to our experience and the testimony given by Mr. Sneed as to the nature of the freight, a 9-ton average is about the best you can expect to load on a semi of the type which they operate. Naturally that semi does have a capacity of around 12½, 13 ton as far as the Oregon laws are concerned, but by the very nature of the freight it is impossible to load them to that extent on the average with the bulky freight that moves out of California territory.

Allowing 9 ton on the O. C. semis, it will require 5 semis
2112 to move this 43½ ton from Medford into Portland. The round trip from Medford to Portland or Klamath Falls is approximately 600 miles. Five round trips would amount to 3,000 miles. Taking a figure which I heard while I was in the Oregon-

Nevada-California Fast Freight intrastate case in Portland just recently, their cost of 26 cents per mile would amount to $780 for those five round trips; and according to their exhibits which I referred to a moment ago, Mr. Gritsch's exhibits Nos. 8 and 7, I arrive at an average revenue per ton of $10.50.

Assuming O. C. were to handle a total of 60 ton that would include the 16½ ton moving from Portland and way points back to California, on a basis of $10.50 per ton it would amount to $630 or a net loss of $150 per day on that operation, and I might explain again that that is brought about by the fact that the Oregon-Nevada-California Fast Freight does not have any intrastate rights to operate north of Medford into Portland, and undoubtedly——

Mr. BEROL. You mean not yet, Mr. Pierce. You know there is an application pending.

The WITNESS. You are more hopeful than I am.

The net result would be that they would be operating practically empty equipment from Portland to Medford on this particular operation.

That concludes those particular computations.

2113 By Mr. ELLIS:

Q. In addition to the peculiar characteristics of each operation, does the question of the balance, or rather unbalance of tonnage moving north-bound as against that moving south-bound have a material effect on the ultimate result to be obtained through the division of traffic as would result from these two applications?

A. Very much so. For example——

Chairman TERRIL. Are you going on to a new line of questioning, Mr. Ellis?

Mr. ELLIS. No; I am just about to complete this.

The WITNESS. The Consolidated Freight Lines at the present time hold intrastate rights to operate into southern Oregon and operate or handle a considerable volume of tonnage into Medford and Klamath Falls, and likewise have a certain amount of north-bound tonnage from southern Oregon points moving into points north of those points, into Portland or points beyond.

With the tonnage that the Oregon-Nevada-California Fast Freight transfers to them it gives them, in my opinion, from a profitable standpoint a very desirable operation from a profit standpoint.

They do have to, according to their testimony, deadhead some equipment from Grants Pass, a distance of 30 miles, Roseberg, a distance of 110, possibly some from Marshfield, probably
2114 170 miles, or even Klamath Falls, a distance of 68 miles.

Assuming that this is necessary——

Q. Deadhead it to what point?

A. To Medford, to take care of the volume of tonnage moving to Medford, including their local tonnage and the interchange tonnage which they receive from the Oregon-Nevada-California Fast Freight. In my opinion that small amount of deadheading is far better than running light equipment as the figures which I indicated here a few moments ago would require if they were operating from Portland to San Francisco.

They have testified that it would avoid deadheading. It is just a question of what you call "deadheading."

Mr. BEROL. Now, just a minute. When you say "they testified they would avoid deadheading," whom do you mean?

The WITNESS. I mean Mr. James.

Mr. BEROL. All right.

The WITNESS. Testified that it would avoid deadheading, a great deal of deadheading of equipment.

Now, personally, I don't see any difference in the actual outcome, whether you run a piece of equipment empty from Klamath Falls and these other points I just mentioned to Medford, or whether you run them empty from Portland to San Francisco. In fact, it is far worse on account of the greater distance that they would be required to send their equipment into San Fran-
2115 cisco because they must return just as much equipment to San Francisco as they send out if they are to maintain a balanced operation, as far as supply of equipment is concerned.

By Mr. ELLIS:

Q. Then, is it your opinion that in view of the conditions you have expressed that the present interchange operation results in a better balance of tonnage for each carrier than would result in independent through operations by each?

A. Very definitely so, and I would like to remark further that the Oregon-Nevada-California Fast Freight holds intrastate rights in the State of California, at least the northern part of the state as well as southern Oregon, namely, Klamath Falls and Medford, and, at the present time, in addition to the tonnage which they are receiving from Consolidated from the northwestern points, they also have the southern Oregon tonnage to draw on which helps to balance their operation, and in addition the northern California tonnage which makes possible a more balanced operation than would be possible were they to operate through to Portland and divide the tonnage between the two carriers.

Mr. ELLIS. Did you want a recess?

Chairman TERRIL. Yes.

Mr. ELLIS. This is a good point.

Chairman TERRIL. If this is a good point to interrupt,
2116 we will take a short recess.

(Thereupon a short recess was taken after which proceedings were resumed as follows):

Mr. ELLIS. I will ask that the "Pierce Auto Freight Lines, Inc." comparative statement of operating revenues and expenses, January 1, 1935, to January 1, 1940, be marked for identification as the next exhibit number.

Chairman TERRIL. It will be marked for identification as Exhibit No. 40, Mr. Ellis.

(Exhibit 40, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Mr. Pierce, will you state whether or not Exhibit No. 40 for identification was prepared under your direction from the books and records of your company?

A. It was.

Q. Is it true and correct to the best of your knowledge and belief?

A. It is.

Q. Are there any comments that you would like to make concerning the data shown on this exhibit?

A. This exhibit shows the Oregon and California revenues for the years 1935, '36, '37, '38, and '39 and for the six months ending June 30, 1940, also for the same period it shows miscellaneous revenues, it shows operating expenses for the respective
2117 years, and the net profit or loss for the respective years, also for the last six months, or first six months of 1940.

Q. Have you any comment to make concerning the red figure in the column headed "1937, net loss $9,452.72" shown in that column?

A. That is due to several factors. We are still in our expansion program and extended it into California, as I mentioned, a few months ago. Not having the proper type of equipment to permit the most economical type of operation, and also that year there was a marked increase in costs of most all kinds, and the rate structure was, or rather, had been going continually lower, all those factors considered resulted in a considerable loss for that particular year.

Q. Looking at the last period covered, the six months ended June 30, 1940, I observe that your Oregon freight revenue and your total freight revenue shown were approximately half of the year 1939, but that the net profit from the first six months operation is relatively much lower than that shown for the year 1939. Can you state how that is accounted for?

The WITNESS. Would you read that question for me again, please?

(The question referred to was read by the reporter.)

A. In 1938 we were successful in securing a blanket increase of 10 per cent on practically all of our rates. That helped very

materially for a considerable period of time, but as
2118 time went on and the rate structures continued to go down due to the extreme competitive conditions the smaller figure is due primarily to the lower—the reduction in rates.

Q. When did the last major reduction in rates become effective?

A. I don't recall, Mr. Ellis.

Q. But it is reflected primarily in the first six months of this year?

A. Oh, yes.

Q. Have you prepared a statement showing the tonnage and earnings per ton for the years 1938 and '39 and for the first six months of 1940?

A. Yes, sir.

Mr. ELLIS. I ask that such statement be marked for identification as Exhibit No. 41.

Chairman TERRIL. It may be so marked.

(Exhibit 41, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Are the operating revenues and the operating expenses shown on Exhibit 41 for identification, the same in toto as shown on the previous exhibit except broken down by monthly periods, Mr. Pierce?

A. (No response.)

Q. You have shown on the previous exhibit the results of each year's operations, including '38, '39 and the first half of 1940 and to that extent, I believe, there is some duplication, is there not?

2119 A. Well, there is some duplication. However, Mr. Ellis, I believe on Exhibit 40 the operating profit is shown and not the net operating profit—pardon—not the net operating profit figure as shown on Exhibit 40.

Q. Will you explain the purpose of Exhibit 41?

A. The purpose of Exhibit 41 is to show by months for the years 1938, '39 and the first six months of 1940 the operating revenues, the operating expenses, the operating profit or loss, the tonnage handled by the month and the average rate per ton.

Q. Was its particular purpose to illustrate the trend of per ton earnings on freight handled by your company?

A. Yes, sir.

Q. I observe for January 1938 a per ton earning of $16.24 which seems to be substantially greater than any other month shown on the exhibits. Can you account for that fact?

A. Yes; January and February 1938 we were still operating in California and it was on March 1st that we discontinued our operation and due to the greater distance traveled, naturally, the

average level of rates are higher which accounts for January and February being much higher than the following average rate per ton for the balance of the period.

You will notice in the lower right hand corner the average
2120 revenue per ton for the first six months of 1940 is down to $10.68 and reached as low as $9.52 in March of this year, which was making it very difficult to maintain a very profitable operation.

There has been considerable effort on the part of many operators to adjust these rates on a more reasonable basis, but so far we have been unsuccessful.

Q. Have you prepared a graph which graphically depicts the results which are shown on Exhibit 41 for identification?

A. I have.

Q. Is the document which I hand you such graph?

A. It is.

Mr. ELLIS. I ask that it be marked Exhibit No. 42 for identification.

Chairman TERRILL. It may be marked.

(Exhibit 42, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Do you have any further comment to make or is any comment necessary on Exhibit 42?

A. It really goes along with Exhibit No. 41 to show in a clear manner the drastic reductions in rates per ton that we have had for the period 1938 up to June 30, 1940, and coincides with Exhibit No. 41.

Q. Have you likewise prepared a statement showing the tonnage transported by Pierce Auto Freight Lines on its weekly through schedule for the weeks July 1, 1939, to June 24, 1940?

A. Yes, sir.

2121 Mr. ELLIS. I ask that this statement be marked for identification as Exhibit No. 43.

Chairman TERRIL. Very well, Mr. Ellis.

(Exhibit 43, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Will you refer to Exhibit No. 43 and indicate the purpose thereof?

A. This exhibit shows the tonnage which we handled on our weekly schedule from July 1, 1939, to June 24, 1940. In the left hand column—in the upper left hand column you will notice the movement northbound to southern Oregon areas, the Roseberg area and so on down the line to San Francisco and Los Angeles and showing the total from Los Angeles and from San Francisco to all of the points.

In the lower figures you will find a movement of south-bound tonnage from various areas in the San Francisco territory and Los Angeles territory, showing the totals for that period of time.

Q. Will you indicate for the record what is meant by the term "southern Oregon area"?

A. That would include Ashland, Medford, and Grants Pass, and the immediate vicinity.

Q. And are the other designations used on the exhibit similar in character or are there any of them that require explanation?

2122 A. I don't think you could say they were exactly similar although it is the same idea. The Roseberg area would cover, say, from Wolf Creek as far north as Drain, Oregon. Eugene would cover from Drain to Salem, Oregon, inclusive, and the Portland area and Seattle area and the other areas, I think, would speak for themselves.

Q. Doesn't the Seattle area, for example, include all tonnage moving to points north of Portland which you deliver to a connecting carrier at Portland?

A. That is correct.

Q. Now, is there embraced in this Exhibit 43 for identification all of the California traffic handled by Pierce Auto Freight Lines during the period shown?

A. Do you mean between San Francisco and Medford?

Q. Moving over the line between San Francisco and Medford?

A. It does on these particular schedules, these weekly schedules.

Q. That is what I mean; I said during the period shown.

Now, do you have any further comments you would like to make on Exhibit 43?

A. I would like to call the Board's attention to the difference in the amount of the north-bound tonnage as compared with the south-bound movement. I think that is all.

Q. Which preponderates?

A. The north-bound movement.

2123 Q. And is that generally typical of the relationship between north-bound and south-bound traffic which you have experienced in the operation of your San Francisco schedules?

A. That is true.

Q. Have you prepared a similar exhibit for the period June 24th to July 25th, 1940?

A. I have.

Q. And is that identical except for the period, the difference in the period covered, identical in form?

A. Yes; it is.

Q. And does it likewise show a substantial heavier tonnage moving north-bound than south-bound?

A. Yes; considerably so.

Chairman TERRIL. That will be marked for identification as No. 44.

(Exhibit No. 44, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Have you likewise prepared an exhibit showing the tonnage ratio of Pierce Auto Freight Lines in the territory between Portland and Medford for the period January 1, 1939, to July 1, 1940?

A. Off the record.

Chairman TERRIL. Off the record.

(Remarks off the record.)

Chairman TERRIL. On the record.

2124 Mr. ELLIS. I will ask that this later identified statement be marked Exhibit 45 for identification.

Chairman TERRIL. It will be so marked.

(Exhibit No. 45, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Refer to Exhibit 45 for identification and explain the purpose of that statement, Mr. Pierce?

A. This exhibit shows the tonnage ratio for the period 1939 to June 1940. In the first column of figures which reads "Portland south-bound" that is the tonnage that moves out-bound from Portland and for that period of time amounts to a total of 43,411,546 pounds. In the next column we have "Portland north-bound" tonnage. That is the total amount of tonnage which moves in-bound to Portland; in other words, it arrives at Portland from points south.

Mr. BEROL. Then, what is the first column, Portland south-bound, originating in Portland?

The WITNESS. The tonnage that goes across our Portland dock moving south-bound.

Mr. FARRENS. Does that include tonnage originating north of Portland but passing through Portland south-bound?

The WITNESS. In the next column——

By Mr. ELLIS:

Q. Before getting away from the first two columns, the total of tonnage received at Portland for the year shown is how much?

2125 A. 15,485,943 pounds.

Q. And what is the significance of the figure of 35 percent shown below those two columns?

A. Speaking in round figures, the figure of 15,000,000 is 35 percent of the 43,000,000 figure. In other words, there is only

35 percent as much tonnage arrives in Portland for Portland and points beyond as what goes out of Portland.

Then, referring to the next column which reads "Medford-Grants Pass south-bound from Portland and way points tonnage"; that is tonnage which is in-bound to Medford and Grants Pass and the southern Oregon territory which would include Ashland. That amounts for that period of time to 25,796,222 pounds. In the last column which reads "Medford-Grants Pass north-bound to Portland and way points tonnage" is outbound tonnage from Medford which amounts to——

Q. From Medford only?

A. From Medford-Grants Pass and southern Oregon territory, which amounts to 17,288,655 pounds, in other words, it represents 67 percent of the amount that moves in-bound to that territory which shows—for the purpose of showing the unbalance at that point.

Q. Was this exhibit prepared to show at the two ends of your Oregon line the ratio of north-bound to south-bound tonnage?

A. That is correct.

Q. Now, did your company handle any traffic during this
2126 period which is not shown in these figures?

A. Yes; the Eugene and Roseberg traffic is not shown on these exhibits.

Q. Would the inclusion of these figures materially change the ultimate result as shown by the percentages at the bottom of the page, or would they be a small portion of the total tonnage and have relatively little effect?

A. I couldn't say what the percentage would be, but these percentages are representative, and it wouldn't make a great deal of difference.

Q. Now, since preparing these exhibits, and particularly Exhibits 43 and 44——

Mr. BEROL. Mr. Ellis, have you finished with the explanation of 45?

Mr. ELLIS. Yes, sir.

Mr. BEROL. Could I interrupt and ask some questions for our clarification?

Mr. ELLIS. I have no objection.

Mr. BEROL. Mr. Pierce, does column 1 include the traffic listed in column 3?

The WITNESS. Only to the extent of that—no; it doesn't include that.

Mr. BEROL. Well, now let me see if I nderstand this; column
1, I understand, originates either at Portland or points north of Portland and is moving south-bound, is that
2127 correct?

The WITNESS. That is correct.

Mr. BEROL. Now, column 3 I understand, also originates at Portland or points north of Portland and moves south-bound to Medford, Grants Pass and way points, is that correct?

The WITNESS. Which column are you referring to?

Mr. BEROL. 3.

The WITNESS. Would you read what his statement was?

(The question referred to was read by the reporter.)

The WITNESS. Oh, yes, yes; that is correct.

Mr. BEROL. Then what is the difference between the tonnage indicated in column 1 and the tonnage indicated in column 3 if column 1 doesn't include column 3?

The WITNESS. Well, there is way-point tonnage picked up along the route which goes into Medford and Grants Pass which is not included in column 1.

Mr. BEROL. I take it, then, that column 1 includes only tonnage that originates either at Portland or points north of Portland?

The WITNESS. Or we will say east.

Mr. BEROL. Yes.

The WITNESS. Going through Portland.

Mr. BEROL. Yes. Now, column 3 likewise includes from the heading on the column, at least, from your statement, tonnage originating at Portland and originating at way points
2128 and that also moves south-bound. Now, I am not able to follow the difference or the distinction between the tonnage shown in column 1 and the tonnage shown in column 3.

The WITNESS. Well, maybe it would help clarify it if I would explain further what the purpose of this exhibit is.

Mr. BEROL. Yes; please do.

The WITNESS. The purpose is to show the comparison of the tonnage which moves out-bound from Portland as compared to what moves in-bound at the Portland station, and the other two columns are—the last two columns are for the purpose of showing the percentage of tonnage which moves into those points as compared to the tonnage which moves out.

By Mr. ELLIS:

Q. You mean measuring it at the southern end of your line?

A. Measuring it at the southern terminal.

Mr. BEROL. You mean Medford and Grants Pass only or points in addition to——

The WITNESS. Well, that would include possibly Ashland. I am not positive of that, Mr. Berol, but I think it does.

Mr. BEROL. Now, let me see if I am correct in that understanding, that if I am to obtain the total of your south-bound tonnage exclusive to the Eugene tonnage, I would have to add the figures in column 1 to the figures in column 3?

The WITNESS. Would you read that, please?

2129 (The question referred to was read by the reporter.)

The WITNESS. I am not sure, Mr. Berol, but I don't think it would work out that way.

Mr. BEROL. Well, is there any way that I can look at Exhibit No. 45 and determine what the total tonnage for any month moving south-bound is excluding, of course, the Eugene traffic?

The WITNESS. I wouldn't attempt to answer that until I gave it more study.

Mr. FARRENS. Wouldn't we find that on Exhibit 41?

Mr. BEROL. I want to understand Exhibit 45. I admit that I am at a loss to understand as to what those respective columns mean. You understand my difficulty, don't you, Mr. Pierce?

The WITNESS. I think I do.

Mr. BEROL. Will you give us some consideration and give an answer in the morning?

The WITNESS. I will be glad to.

Mr. ELLIS. I think the simple answer, if you will accept my comment—it was prepared at my direction——

Mr. BEROL. All I want is guidance in understanding the exhibit.

Mr. ELLIS. The first two columns were intended to measure the traffic at Portland, the second two columns to

2130 measure the traffic over the Medford dock, reaching all of the southern Oregon tonnage in the bottom figure, and you can't add the two and obtain a total that will give you any information at all.

Mr. BEROL. Then, I take it that the first column represents the tonnage passing over the Portland dock and if the second represents the tonnage passing over the Medford, the first column includes such tonnage as may pass over the Portland, and the Medford docks both, and the third column will include such tonnage as passes over the Medford dock and as may pass over any other docks between Portland and Medford, but not including Portland? Is that the purpose of it?

Mr. ELLIS. You are almost correct, but the tonnage originating and passing over the Portland dock may or may not ever reach Medford.

Chairman TERRIL. Mr. Ellis, is not this correct: That the first column shows the movement out of Portland——

Mr. ELLIS. That is right.

Chairman TERRIL. And a portion of that might have been delivered some place en route between Portland and Medford?

Mr. ELLIS. That is my understanding; yes.

Chairman TERRIL. And the first column indicates the amount which originated at Portland and arrives at southern Oregon,

either Medford or southern Oregon points; is that
2131 correct?

Mr. IVERS. Plus what was picked up.

Chairman TERRIL. Plus what was picked up en route.

Mr. BEROL. I think that was probably what was intended here.

The WITNESS. If that is the case, then, I am mistaken in saying that didn't include Roseberg and Eugene freight.

Mr. BEROL. Then, I take it that the exhibit does include Roseberg and Eugene freight?

The WITNESS. It was my understanding it didn't, Mr. Ellis.

Mr. ELLIS. I think you are correct in that.

Mr. FARRENS. Let the witness find that out and tell us in the morning.

Chairman TERRIL. If you have a correction to make on the thing in the morning, why, that will assist us.

Does this complete the offer of exhibits?

Mr. ELLIS. If this is a convenient time and you want to recess——

Chairman TERRIL. Are you prepared to offer them now?

Mr. BEROL. I would like to ask one more question in connection with Exhibit 45.

Now, with respect to the percentage figures, do I understand correctly that 35 per cent represents the proportion of the
2132 north-bound tonnage to all of the tonnage that is handled both north-bound and south-bound for the first two columns?

The WITNESS. 35 per cent is represented in-bound by this 15,000,000 of the 43,000,000. 15,000,000 is the in-bound tonnage to the Portland dock and the other column is the out-bound tonnage.

Mr. BEROL. In other words, if we were to figure that on the basis of the total tonnage moving, the north-bound would be approximately only 26 per cent of the total, is that right?

The WITNESS. Well, now, I didn't follow you there, Mr. Berol; I am sorry.

Mr. BEROL. I think that is a mathematical computation I can make.

The WITNESS. You mean you don't think 35 per cent is correct; is that it?

Mr. BEROL. No; I do, based upon your explanation, which is correct.

Now, will you explain as to what the 67 per cent represents?

The WITNESS. The same thing, only over the Medford dock, in-bound and out-bound.

Mr. FARRENS. It represents the relation of the fourth column to the third column, doesn't it?

2133 The WITNESS. That is right.

Mr. ELLIS. That is right.

Mr. FARRENS. Not the percentage of the total?

The WITNESS. No.

Mr. ELLIS. At this time I offer in evidence Exhibits marked for identification 40 to 45 inclusive.

Mr. BEROL. I have no objection.

Mr. SCHAFER. No objection.

Chairman TERRIL. Hearing no objection, the exhibits offered will be received in evidence and marked with the numbers given them for identification.

(Exhibits Nos. 40 to 45 inclusive, Witness Pierce, received in evidence.)

Chairman TERRIL. We will recess until 9:30 tomorrow morning.

(Whereupon at 10:00 p. m. October 18, 1940, the hearing recessed to 9:30 a. m. October 19, 1940.)

2134 Before the Interstate Commerce Commission

Docket No. MC 9115 (Sub. No. 1)

In the matter of the application, as amended, of Oregon-Nevada-California Fast Freight, Inc., of 675 Brannan Street, San Francisco, California, for a certificate of public convenience and necessity, Form BMC–8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally in interstate commerce in the States of Washington, Oregon, and California, and serving Vancouver, Camas, and Washougal, Wash., over irregular routes, and over the following regular routes:

Route No. 1—Between Medford and Portland, Oregon, via Junction City and McMinnville, Oregon.

Route No. 2—Between Medford and Portland, Oregon, via Junction City and Salem, Oregon.

Route No. 3—Between Medford and Portland, Oregon, via Forest Grove, Oregon.

Route No. 4—Between the junction of U. S. Highway 99 with Oregon Highway 42 near Dillard, Oregon, and Drain, Oregon, via Coquille and Reedsport, Oregon.

Route No. 5—Between Redding, California, and Lakeview, Oregon, via Alturas, California.

SAN FRANCISCO, CALIFORNIA,
October 19, 1940, 9:30 a. m.

Before Joint Board No. 5: C. T. Terril, Chairman; Warren K. Brown, Joseph Starin, H. L. Hanback, Examiner.

2135 Hearing resumed.

Appearances: Same as heretofore noted.

PROCEEDINGS

Chairman TERRIL. We will proceed, gentlemen.

A. C. PIERCE was recalled and testified further as follows:

Direct examination (resumed) by Mr. ELLIS:

Q. At the conclusion of the session last evening, Mr. Pierce, some questions were asked concerning Exhibit 45.

Is there any statement you could make at this time to clarify the understanding of that exhibit?

A. I think the only question existing was what tonnage this exhibit covered. This covers all tonnage.

In the first column, from Portland, or through Portland to points south, including Eugene and Roseburg freight.

In the second column that includes all freight arriving at Portland and moving through Portland.

The third column covers all freight in-bound to Medford and Grants Pass, and the fourth column covers all freight out-bound from those stations.

This report does not cover any freight that is picked up or delivered to intermediate points between Portland and
2136 these southern Oregon points. As an example, it would not cover any freight between—moving between Eugene and Roseburg.

Mr. FARRENS. Would it cover freight moving between Roseburg and points in California?

The WITNESS. Yes, it would, because that moves through Medford station.

Mr. FARRENS. Even when it went on through equipment?

The WITNESS. Yes.

By Mr. ELLIS:

Q. Since Exhibits 43 and 44 were prepared relating to tonnage moving between Oregon and California points, have you compiled any data which you can read into the record showing later movement?

A. Yes. I had compiled the tonnage by dates from September 5 to October 4, inclusive, moving in interstate commerce both north-bound and south-bound.

The average tonnage south-bound moving to California points amounts to 8,368 pounds daily average or in round figures, 4 ton.

Our north-bound tonnage moving from San Francisco and through San Francisco to Oregon points amounts to a daily average of 18,635 pounds, or 9¼ ton.

Chairman TERRIL. Excuse me, Mr. Pierce; over what period was that average made?

The WITNESS. From September 5 to October—wait a minute, to October 4th.

2137 Chairman TERRIL. Of this year?

The WITNESS. This year; just the last 30 days, you might say.

By Mr. ELLIS:

Q. Will you state the total number of pounds of freight handled south-bound in that period?

A. 217,560 pounds.

Q. And the total number of pounds handled north-bound is what?

A. 484,503 pounds.

Q. Earlier in your testimony you discussed the factors which brought about the inauguration of your through service between Portland and San Francisco Bay, and you have made some comment upon the result to be anticipated from proposed through operation of the applicants in these two cases.

I would like to have you clarify for the record, Mr. Pierce, the difference in the practical operating situation confronting Pierce Auto Freight Lines and that confronting these two applicants, insofar as the methods of operation are concerned.

A. Well, as mentioned in my previous testimony, I was desirous prior to extension into California of securing a connection so I could interchange freight at Medford. Being unable to locate any carrier that a satisfactory arrangement of this kind could be made with, I found it necessary to make this extension.

The Oregon-Nevada-California Fast Freight were work-

2138 ing closely with Consolidated Freight Lines, and the only tonnage that we could hope to secure was tonnage which we could have the shipper show the Pierce routing on, and under the close working arrangements which Consolidated and O. C. had, it was very difficult to secure any particular portion of the interstate tonnage.

Q. What is your position as to whether or not the operation of through equipment between Portland, on the one hand and San Francisco Bay points on the other does constitute an advantage and a desirable situation?

A. I do think movement of through equipment between Portland and San Francisco and other northwest points is very desirable.

Q. Have you any opinion to express as to whether or not it is practical for these two applicants, in the light of the volume of traffic, to be moving between Bay points and the points in Oregon and north, to effectuate such through movement of traffic?

A. Yes. It is my opinion where there is sufficient volume of traffic that will warrant the operation of through equipment without the necessity of interchanging the lading, that that is very desirable.

As I testified to in our own hearing at Medford in 1937, there are advantages to a through service over a joint service. But the disadvantage rests almost entirely, if measured in percent-
2139 ages, I would say, closely to 90 percent, in the necessity of interchanging freight.

There is where most of the difficulties arise. If they didn't have sufficient volume of traffic to make—to warrant a through operation, it would be a more difficult situation than where they do have a large volume of traffic which makes the operation of through units possible.

Both of these applicants propose a through service which they state that they believe will be superior to the present method of operation because they will be in a position to render a direct through service to many points that are not now being served.

It is my opinion if these applications were granted the very thing which they are striving to accomplish would be defeated.

I went——

Mr. BEROL. Now, just a minute. I have been trying to be most lenient in listening to Mr. Pierce's testimony. I understand that Mr. Pierce is qualified as an expert truck operator. I do not think he is qualified to argue the case, nor is he justified or warranted in arguing the case on the witness stand.

Now, if we are going to have facts from which an argument can be made, let us have them. If we are going to argue the case now, let us argue it.

I am cautioning both counsel and the witness, and I am
2140 herein objecting to further argument.

Mr. SCHAFER. I will join in that.

Mr. ELLIS. The witness was about to state the facts on which he bases his opinions, I believe.

Mr. BEROL. The witness has been about to state the facts ever since he has been on the witness stand this morning, and I have been patiently waiting for that time to come.

Mr. FARRENS. I ask the Board to remember that Mr. James' testimony on the witness stand was almost entirely argument.

Mr. BEROL. I am not responsible for Mr. James' testimony.

Chairman TERRIL. The witness may state what is his opinion as to an operation, but of course, an argument of the case on behalf of a witness, as Mr. Berol has pointed out, is not proper at this time, nor proper at any time by a witness.

Mr. ELLIS. I will concede that argument is not proper, but the witness was attempting to state his opinion and about to state the facts, the practical facts.

Mr. BEROL. Let us have the facts first and the argument afterwards instead of reversing them.

By Mr. ELLIS:

Q. Will you state, Mr. Pierce, why, in your opinion, on what facts you base your opinion that the proposal here would defeat the purpose intended?

A. The exhibits introduced by both applicants show that
2141 the division of the tonnage would leave such a small volume of traffic to the most of the larger points where they can break bulk that it wouldn't be a practical operation?

Q. What would be a practical operation?

A. It wouldn't be profitable, and any operator is not going to operate for long a very substantial—an operation which results in a substantial loss.

Q. What is your opinion as to the effect it would have on the ability of the respective applicants to load through equipment from San Francisco, for example, to Seattle?

A. They can load through equipment, as far as that part is concerned, but they will not be able to load full equipment for the most part.

Q. Does the ability to load full equipment necessarily affect the practical operation of through schedules?

A. Yes.

Q. Now, with respect to the ability of competing carriers, with respect to the relative abilities of competing carriers to compete for traffic between points where one has through operation, such as your own, and where these two applicants have joint operation, what are the facts?

Mr. BEROL. I am sorry. I did not hear the question. There was too much competition and noise.

May I have it read?

Chairman TERRIL. Would you give him the question,
2142 please?

(The question was read by the reporter.)

The WITNESS. I don't know that I understand exactly what you have in mind.

By Mr. ELLIS:

Q. Is it your opinion that your through service constitutes a disadvantage to your competitors so that they would be prevented from fairly competing with you for traffic between San Francisco Bay points and Portland?

A. No. I don't believe it does, due to the fact that the Oregon-Nevada-California Fast Freight is domiciled in San Francisco and have been over a long period of time. They have naturally built up a close relationship with the shippers in this territory. They have their shops here, and the same thing holds true in the northwest with Consolidated Freight Lines.

And through the joint operation, interchange of equipment, there is no reason, as I see it to date, why their through operation couldn't be as practical as that of a through operator.

There are some few items on which there might be a difference of opinion, but I believe that most of the things could be ironed out through close cooperation between carriers.

Q. In your solicitation of traffic have you found any shipper complaint concerning any disadvantages resulting from interchange of traffic between these two applicants?

2143 A. You mean interchange of lading or interchange of equipment?

Q. Interchange of lading.

A. I have heard of complaints on account of interchange of lading for the various reasons mentioned here by applicants here; yes.

Q. Is it your opinion that those complaints could be eliminated by the operation of through equipment?

A. Very largely; yes.

Q. Among the shipping public is there any general knowledge that shipments moving between San Francisco Bay and Portland, so far as you have contacted shippers, is actually transferred en route?

A. We found in attempting to secure witnesses for this hearing that very few of the shippers or merchants were acquainted with the fact that an interchange was actually being made.

I would like to mention further that if these applications were granted, that due to the division of tonnage, it will necessitate at least whatever portion of tonnage O. C., or Oregon-California-Nevada Fast Freight receives to be interchanged at Portland, assuming, of course, that there is not sufficient tonnage, and the exhibits do not show that there is sufficient volume of tonnage. Whereas, if they continue to——

Mr. BEROL. Just a minute. I will ask that the words "that the exhibits show that there isn't a sufficient amount

2144 of tonnage" be stricken. That is again argumentative.

Chairman TERRIL. He states that it is in his opinion, and I think it would be admissible.

The WITNESS. Well, that is my opinion.

By Mr. ELLIS:

Q. Complete your statement.

A. And it will also make it more difficult for Consolidated Freight Lines to secure sufficient volume of tonnage to warrant through operation of equipment to Spokane and Portland, and I notice, according to this exhibit, that a large portion of the tonnage moves to points beyond Portland, namely, Spokane territory and Seattle points.

And if the equipment was interchanged at Medford and they could load through units to these points, that would avoid interchange at Portland which will result, at least to some extent, if these applications are granted.

Q. Do you know whether Consolidated Freightways is, at the present time, handling any substantial portion of its Seattle tonnage or tonnage beyond Portland in through equipment without interchange at the present time?

A. I only understand that they are. I am not certain.

Q. Did you hear the testimony of the Witness James concerning the volume of traffic between northwestern points and California points and the increase in that type of traffic in recent years?

A. Yes; I did.

2145 Q. What have you to say concerning the character of that traffic and whether or not it is such as is available for motor-carrier transportation?

A. There is a certain portion of that tonnage that is available for motor-transportation movement, but I indicated that——

Chairman TERRIL. You mean common carrier motor transportation?

The WITNESS. Yes, sir. He stated that there had been a lessening of the boat service between northwestern points and California points which would result in more available truck traffic.

Now, it is my experience——

Mr. SCHAFER. Just a minute, before you go further with that point. I want to make it clear in the record. Is it your understanding that Mr. James stated that there was any south-bound movement whatsoever available by reason of the curtailment of boat service?

The WITNESS. Yes; that was my understanding. I might be mistaken.

Mr. SCHAFER. Do you have the transcript? Can you point to any such testimony in the transcript?

The WITNESS. Off the record.

Chairman TERRIL. Off the record.

(Discussion outside the record.)

Chairman TERRIL. On the record.

2146 By Mr. ELLIS:

Q. Regardless of what Mr. James may have testified to on the subject, what is the fact as to whether or not traffic which normally moves via the boat lines such as is desirable or profitable truck traffic?

Mr. BEROL. Objected to on the ground that no proper foundation has been laid.

I have only stipulated that this witness is an expert truck operator. I certainly have not, nor will I, stipulate that he is an expert water operator, or that he knows anything about it, for that matter.

Mr. ELLIS. He certainly knows whether as a truck operator he is in a position to obtain that traffic and whether he was one that handled it, even if he could—

Mr. BEROL. Not unless he knows what particular traffic or volume is moving by water or what volume or what traffic, or points the other witness may have testified to.

Chairman TERRIL. Do you know what traffic is ordinarily carried by boat in coastwise movement? The character of the traffic?

The WITNESS. Generally I do; yes.

Mr. SCHAFER. I will stipulate that is lumber south-bound and never was available to trucks.

Mr. ELLIS. He is still going to run trucks north-bound are you not?

Mr. BEROL. I am renewing my objection on the ground
2147 that a proper foundation has not been laid.

Mr. ELLIS. Well, I do not know what more foundation is necessary in a case of this kind.

Mr. BEROL. Well, then, I take it that the objection is ready to be ruled upon.

Mr. FARRENS. If the Board please, how did this testimony about the ships get into the record?

Mr. SCHAFER. In exhibit form.

Mr. FARRENS. Who prepared the exhibit?

Mr. SCHAFER. Mr. Weisler.

Mr. FARRENS. It was not a ship expert who put this in evidence.

Mr. SCHAFER. Yes; he produced all the supporting documents from which he prepared his survey, Mr. Farrens. It was a much better survey than the ones that you introduced yesterday on highway curves.

Chairman TERRIL. We will admit the testimony of this witness for what it may be worth as his opinion of the traffic, and your objection will be overruled and exception will be noted in the record.

The WITNESS. I have forgotten what the question was now.

Chairman TERRIL. Now, will you find the question?

(The question was read by the reporter.)

The WITNESS. Generally it is not desirable traffic,
2148 and for this reason: That boats, steamship service, carry the lowest rates available for any form of transportation. The service is slow, and if the boat service was to be discontinued, if that traffic can move and take the time that is required to move by boat, the next logical method of movement would be by rail carload and not by truck.

By Mr. ELLIS:

Q. Has your experience as a truck operator demonstrated those facts?

A. Yes, sir.

Q. Did you hear the testimony of the boat-line witness yesterday giving certain commodity rates on products moving northbound from the Bay area to coast points?

A. I heard part of it.

Q. Did you hear his testimony concerning the existing rates on those commodities?

A. Yes.

Q. Can you state whether or not there are in existence at the present time any truck rates which are on a level with the boat rates named or on which you can compete for that traffic?

A. I don't know of any that he named that were in the truck rates as low as those boat rates.

Chairman TERRIL. Even upon the minimums that he named, Mr. Pierce.

The WITNESS. Was his testimony between San Fran-
2149 cisco and Portland or Coos Bay points?

Mr. IVERS. Coos Bay points.

The WITNESS. To my knowledge, not even on tonnage reduction rates.

By Mr. ELLIS:

Have you prepared for this case, Mr. Pierce, exhibits showing a summary of trip logs between Portland and San Francisco covering the operations of your line?

A. I have.

Mr. ELLIS. I ask that such a summary in exhibit form be marked for identification as "Exhibit No. 46," covering the southbound movement, July 1 to July 27, 1940.

(Exhibit 46, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Was the data contained in Exhibit 46 for identification prepared under your direction from the trip logs kept in compliance with the Interstate Commerce Commission?

A. They were.

Q. Briefly state how those trip logs were prepared as to divisions or——

A. The truck logs required by the Interstate Commerce Commission requires each driver to keep a record from the time he reports for duty, we will say, within a given week to the time that he is on duty, the time that he drives, the time that—the stoppage time in transit and the arrival time at destination; in fact, gives a complete log of his time while on duty as well as showing the time that he is off duty.

2150 Q. Do those logs show accurately the number of hours and minutes which he devotes to driving time as well as time consumed loading and unloading and for incidental stops?

A. Yes; it does.

Q. Are you able to compute from such trip logs the total elapsed time occurring in the movement of the truck from one terminal to the next and by combining them obtain accurate information on the exact time utilized over the entire route for the different purposes?

A. Yes, sir.

Q. Are copies of all such logs furnished by the drivers to the office of the company and kept on file there?

A. They are.

Q. Was Exhibit 46 compiled from those copies?

A. It was.

Q. Now, will you proceed to analyze Exhibit 46 by taking a typical trip?

A. Exhibit No. 46 covers the trip logs north-bound from San Francisco to Portland.

Starting on the first upper left-hand column on July 3, truck No. 50——

Q. Wait a minute. Apparently it is south-bound. I thought I had the north-bound.

A. No. I understand it was north-bound. I misread it. South-bound?

2151 Q. South-bound.

Chairman TERRIL. Off the record.

(Discussion outside the record.)

Chairman TERRIL. On the record.

The WITNESS. Referring again to Exhibit 46, it shows the movement of one unit according to the trip logs south-bound from Portland to San Francisco.

Referring to the upper left-hand corner, truck No. 2 left Portland on 6/29 at 5:00 p. m., showing the name of the driver.

The next column shows the actual driving time between Portland and Roseburg.

The next column is for the purpose of showing incidental stops, such as check stops and eating stops.

By Mr. ELLIS:

Q. How do you account for the fact that on that first trip no incidental stops are shown?

A. They should have been shown. I am not in a position to state why the driver didn't show them. These exhibits were made up in accordance with the truck logs.

The next column shows the loading or unloading time in transit.

Q. Would that include loading time in Portland or only intermediate stops after leaving Portland?

A. Only intermediate stops after leaving Portland. The total elapsed time of 6 hours and 30 minutes, that is on the trip from Portland to Roseburg.

2152 Q. Now, at Roseburg is there a change of drivers?

A. Yes. At Roseburg we changed drivers and the driver by the name of Hunnicutt starts out with the same truck. And this group of figures or columns show the same information as is shown in the preceding log of figures as to incidental stops, unloading or loading time and elapsed time.

And then continuing on down to Medford, that driver drives from Roseburg to Medford. We change drivers at Medford, and the next driver takes the truck from Medford to Redding, California. The same information is shown in those columns as in the preceding columns.

Down at Redding, California, again we change drivers. The next driver takes the unit from Redding to San Francisco. And referring to the last lot of figures in the lower right-hand part of the exhibit, you will find the arrival date of this truck, the arrival time, the total elapsed time from Portland to San Francisco, the actual driving time, the total loading and unloading time, and the total incidental stops.

And in the last column the total operating time between Portland and San Francisco.

Now, I would like to explain further that the I. C. C. truck logs make no provision for showing the time elapsed between interchange or division points of drivers. For example, from Portland to Roseburg, strike that. At Roseburg there is no way

2153 of determining on the I. C. C. log that—the elapsed time between the change of drivers—and the same thing holds true at Medford and the same thing holds true at Redding, California.

Q. Can you determine, however, from this exhibit, the total time elapsed en route for those purposes by deducting the driving

time, loading time, and incidental stops from the total elapsed time between departures and arrivals?

A. Would you read the question, please?

(The question was read by the reporter.)

The WITNESS. I don't follow your question.

By Mr. ELLIS:

Q. I will state it another way. I note in the last column on Exhibit 46, taking this particular trip that you described as "typical," that the total operating time was 28 hours, 15 minutes, whereas the first column in that right-hand segment under "Total elapsed time, Portland to San Francisco" is the figure "38 hours 50 minutes" is shown.

A. Yes. By deducting the total operating time from the 38 hours 50 minutes you would find, or, you would arrive at the time consumed at division points.

Q. But you were unable to determine how much of that time was consumed at a given division point?

A. That is true.

Q. Now, can you state for the record the approximate time consumed in changing drivers at these respective division
2154 points, or for other purposes necessarily incident to the operation?

A. Off the record. May I suggest you introduce this other exhibit before I go into that? Then I can offer both at the same time.

Mr. ELLIS. I will ask that a like exhibit covering the north-bound movement be marked for identification as "Exhibit 47."

Chairman TERRIL. It may be so marked.

(Exhibit 47, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Is Exhibit 47 identical with Exhibit 46, in that it covers the north-bound movement of trucks between San Francisco Bay points and Portland during the same period of time?

A. Yes; with the exception of just a day or two's difference from the first date which we started which we used to prepare the exhibit.

Q. Is there any comment you desire to make on Exhibit 47 or any distinction you care to make between it and the preceding exhibit?

A. No; I believe not. It is self-explanatory.

Q. At this time could you tell us concerning the practical operating conditions at junction points and something concerning
2155 the amount of time which you normally use at those points?

A. Taking first a movement of traffic north-bound, we always have a certain amount of tonnage from Medford on these

units which requires some time to unload and rearrange a portion of the freight in order that it can come off in station order.

And then at Roseburg you also—which is another division point—would have a certain amount of time for unloading, depending upon the amount of time or amount of tonnage which you had to unload.

At Redding there is a very small amount of tonnage that moves from Redding to Oregon points. In fact, it is practically nil. There is very little time lost there as far as loading or unloading is concerned on the north-bound trip.

South-bound we pick up freight at Roseburg, which is a division point, and also at Medford and quite often make deliveries in Redding which require a reasonable amount of time, again dependent upon the amount of tonnage we have to load or unload.

Q. What would be the minimum amount of time required normally incident to the change of drivers and the necessity of one driver turning over his bills and other documents to the second driver, assuming that there were no freight to be unloaded or loaded at the junction points?

A. It would take on the average of 20 or 30 minutes.

2156 Q. Just state the practical things that are done when a truck pulls into a division point where one driver is to go off duty and the responsibilities are to be turned over to another driver?

A. The new driver is required to check the equipment quite thoroughly to make sure it is in good condition, the lights are in working order, the tires are O. K., windshields clean, and full tanks are O. K., water in the radiator, all of those things are required by us, by the company.

And in addition the Interstate Commerce Commission requires the driver to make a thorough inspection of his equipment before he starts out on his shift.

Q. Is it customary to interchange information between drivers as to particular facts or conditions concerning the load?

A. Sometimes that is true; not to any great extent.

Q. Would you say 20 minutes would be the minimum time normally consumed incident to change of drivers and inspection of equipment at those division points if there were no freight to load or unload?

A. I would say that is conservative; yes.

Q. And to determine the full time to be utilized at each division point you would have to add to that time, would you, the time you have to load or unload whatever freight was originating at or destined to the division point?

A. That is true. At Medford there is considerable ton-
2157 nage goes into that point and it requires possibly more time there than at any other point.

Chairman TERRIL. Mr. Pierce, included in this log between Portland and Roseburg, for instance, is the time used for any stops en route for loading or unloading, or do you pick up or deliver any place en route between Portland and Roseburg on these trips that you have indicated?

The WITNESS. On Exhibit No. 47?

Chairman TERRIL. Well, yes; I am particularly speaking of south-bound. That would be Exhibit 46.

The WITNESS. Yes. We pick up freight at Roseburg.

Chairman TERRIL. I mean, at an intermediate point like Salem or Eugene, would that truck stop there and either pick up or deliver freight?

The WITNESS. Yes.

Chairman TERRIL. In other words, these are not through schedules to San Francisco or to Medford? Do you understand what I mean?

The WITNESS. I am not certain that I do, Mr. Terril.

Chairman TERRIL. These are trips of a vehicle originating at Portland on the one hand and destined to San Francisco, these vehicles?

The WITNESS. That is true.

Chairman TERRIL. Now, is local freight handled on these trips?

2158 The WITNESS. Yes. We are only operating—have only had suffcient volume of tonnage to operate one unit. We haven't had sufficient tonnage to make possible a second or a through unit without the necessity of handling way freight.

Chairman TERRIL. And the same would be true in the reverse direction?

The WITNESS. Yes, sir.

By Mr. ELLIS:

Q. But do you operate other schedules between Portland and Medford handling local freight?

A. Oh, yes; several of them to all points: Eugene, Roseburg, Grants Pass.

Q. So far as possible, is all interstate traffic moving from Portland or north–south to San Francisco Bay points handled on these particular schedules and your local traffic handled on your local schedule?

A. That is what we endeavor to do; yes. Sometimes that cannot be done.

Q. Your pick ups at Salem or Eugene on these schedules, would they normally include only traffic moving beyond Medford from points in California?

A. That is what we hope to make possible, but due to the insufficient volume of south-bound traffic, we haven't been able to, with rare occasions, operate in such a manner. We can't afford to take what small volume of tonnage there is out of Port-
2159 land and these intermediate points and operate through to Medford or San Francisco with such a light load.

Q. But do I understand this is the closest approximation to a through schedule to serve the through traffic that you have been able to work out, considering those practical traffic conditions?

A. That is true.

Before leaving these exhibits, I would like to mention that we inaugurated this daily schedule on June 24th of this year, and these exhibits were prepared covering the period from July 3d to July 27th, and our loads generally were very light and that didn't necessitate, due to the light volume of traffic, a great deal of time at intermediate points for loading or unloading and likewise we were in a position to make much better time than we could were we loaded to capacity.

Q. Do you have any intrastate rights within the State of California?

A. No; we do not.

Q. Then there would be no intrastate traffic, no local stops for that purpose incident to the operation of the schedules?

A. Well, there could be stops in California to pick up freight north-bound moving into Oregon, but not as far as pick-up and delivery in California.

Q. Actually did the majority of the traffic move to or from San Francisco Bay points rather than from points inter-
2160 mediate between here and the California line?

A. Yes. The majority of it moves to the Bay points.

Q. Now, in the practical operation of a north-bound schedule from San Francisco Bay to Portland, what has been your practice with respect to attempting to make hurried departures from Medford north-bound? Or have you regulated your departures from Medford north-bound in such a manner as to bring about an arrival time which meets the shipping needs as you find them?

A. We endeavor to dispatch our truck from Medford north-bound just as early as possible in order to make delivery in Grants Pass the following afternoon. As far as points beyond that——

Q. The following afternoon, or do you mean the same afternoon?

A. Well, I mean the following afternoon from departure time from San Francisco.

As far as points beyond Grants Pass, we have been unable to reach Roseburg, which is the next point of any size in time to make deliveries which would be any benefit to the shipping public.

Q. Are there any traffic necessities confronting you which at times delay the departure of your north-bound schedule from Medford, insufficiency of tonnage, or anything of that kind affect your departure time?

2161 A. If I understand your question, do you mean is there insufficient volume of traffic at Medford to dispatch a truck immediately?

Q. Does it occur at times that there is insufficient traffic on the truck arriving in Medford from San Francisco Bay that you find it necessary to hold that truck in Medford or to obtain a load before continuing north to Portland?

A. Well, oftentimes there is insufficient volume of traffic; in other words, it lacks a great deal of being a full load, but we dispatch it anyway.

Q. Now, so far as the practical service to the shippers is concerned, would there be any particular advantage in moving that truck north out of Medford within ten minutes after it arrived? Would it give you any better delivery in Portland?

A. As far as points beyond Grants Pass, from our operating experience, it would not.

Q. Why do you say that?

A. Because very few shippers, unless it is a matter of emergency, have any use for freight late in the evening or during the night.

Q. What is the normal demand for service, as you found it, for delivery of that merchandise?

A. As far as points beyond Grants Pass, second morning has been satisfactory to the shipping public; at least I don't know of any complaints because they didn't receive it the

2162 prior evening.

Q. Have you, for the purpose of this record, made an analysis of operating conditions on peculiar road or traffic conditions between Portland and the San Francisco Bay area?

A. Yes; I have.

Q. Just what was the nature and extent of that analysis?

A. I requested the drivers to take the information from their truck logs and give me the time, furnish me the time required to travel from one city on the edge—from the city limits of all the towns lying between Portland and San Francisco to the—in other words, through the city.

Q. You mean by that that you endeavored to ascertain the number of miles of restricted zones or where low speed was required because of traffic conditions or municipal conditions?

A. That is true, the time and also the distance, and also secured the time required between given points in the mountainous territory, time and distance.

Q. By time in mountainous territory do you mean by that the areas in the mountainous territory where restricted speed was necessitated by unusual curvature or grades?

A. That is true.

Q. Now, will you state the result of your investigation?

A. Between Portland and San Francisco on U. S. Highway 99 via Medford there are 59 points or towns that require a reduced speed below 35 miles per hour. The distance through those
2163 59 towns up to the terminals, or, rather, between the Portland terminal and the San Francisco terminals amounts to 71 miles which requires 3 hours and 12 minutes driving time. This amounted to an average speed of 22.2 miles per hour through these particular places.

Then I took the section from Canyonville, Oregon, to Mt. Sexton Auto Camp, which is at the foot of Mt. Sexton, located at the Mt. Sexton Auto Camp, which is a distance of 37.2 miles, which required 1 hour and 51 minutes average driving time, or an average speed of 20 miles per hour.

Then I took the section from Ashland, Oregon, to Hornbrook, which is a stretch over the Siskiyous, which is a distance of 27 miles, which requires an average of 1 hour and 25 minutes, or an average speed of 19 miles per hour.

Then from Dunsmuir to Redding, which is again not necessarily a mountainous territory, but quite hilly in certain sections, it is a distance of 59 miles, which requires 2 hours and 20 minutes, or an average speed of 25⅓ miles per hour.

Taking all of those zones including the cities, and this mountainous territory, I arrive at a distance of 194.2 miles requiring 8 hours and 48 minutes driving time.

Chairman TERRIL. 8-48?

The WITNESS. Yes.

Chairman TERRIL. Which amounts to?

The WITNESS. Which amounts to 22 and a fraction miles
2164 per hour.

By Mr. ELLIS:

Q. Are those figures based on your actual practical operating experience, Mr. Pierce?

A. They are. And our information was taken, as far as these zones were concerned—were furnished by the drivers, which they secured from their logs.

Chairman TERRIL. Will you give me that figure for average miles per hour on that?

(The record referred to was read by the reporter.)

Chairman TERRIL. Let's us take a short recess at this point.
(A short recess was taken.)
Chairman TERRIL. Come to order, gentlemen.

By Mr. ELLIS:

Q. Before leaving your discussion of the restricted speed zones, will you tell us how many school zones are embraced within that restricted speed area?

A. On this same route there are 21 school zones requiring a reduction in speed. These are schools other than what are located in the city limits where you are already required to reduce your speed, and were included in the cities which I mentioned a moment ago.

It is true that during the summer vacation there is no requirement to reduce your speed in passing these schools, but on an operation as proposed by applicants you require one day of daylight run and you will be passing these schools, and
2165 naturally there will be a certain reduction in speed at those places. I haven't given that any consideration in the figures that I have mentioned before as far as reduced speed is concerned.

Q. Now, will you analyze other operating time which is necessarily require in operation of these schedules in addition to the slow zones that you have described?

A. I have mentioned the change of drivers. We have three drivers on the operation between Portland and San Francisco.

Q. Three drivers?

A. Three drivers, one way; yes. And the time required——

Q. Are you certain about that? You mean you have three drivers or three changes of drivers?

A. No, it is four, four changes of drivers.

Mr. BEROL. Well, I now make it five drivers.

The WITNESS. Four drivers and three changes, or division points. The change of those drivers I estimate the loss of time from our own experience to be an hour and 30 minutes.

By Mr. ELLIS:

Q. At all points?

A. No, total. For loading and unloading it naturally depends on the amount of freight which you have to handle to determine the amount of time it would take. 20 minutes is a minimum, whether it is a hundred pounds or 500 pounds, but it will run from 20 minutes to an hour and a half, and if your freight is running fairly heavy, you can depend on at least seven
2166 30-minute stops between here and Portland if you are handling any way freight to speak of, which would amount to two hours and 20 minutes.

The driver that drives between San Francisco and Redding is allowed 30 minutes to eat, the driver between Redding and Medford is allowed 30 minutes, and the driver between Roseberg and Portland is allowed 30 minutes.

Q. Would it be practical to eliminate the time for eating or refreshment by your drivers during their hours on duty?

A. I beg your pardon?

Chairman TERRIL. Give him the question.

Mr. BEROL. What difference does it make? I submit there has been no proposal, either, by the applicant to eliminate the rest or meal periods while en route. Whether it would be practical or not, it would not be humane. We would not indulge in it.

We are wasting a lot of time. If the protestants are going to carry on this point to where we are not going to conclude this today, that is one thing. I would like to see a little expedition here so that we can conclude today.

Chairman TERRIL. Will you answer the question, please.

Mr. SCHAFER. I will stipulate that if the driver had to keep a good "figure" it would be practical to eliminate the eating.

Chairman TERRIL. I again say, answer the question.

2167 The WITNESS. I have forgotten the question now.

By Mr. ELLIS:

Q. Would it be practical to eliminate the allowance of time for the drivers to eat or have coffee while on duty?

A. No; it is not. Then, it is ordinarily necessary to fuel twice en route from San Francisco to Portland which takes an average of 20 minutes at each fueling stop, or a total of 40 minutes.

Mr. SCHAFER. If the Board please, I am going to object to this. He is just summing up an exhibit here. We have got it in the exhibit. It shows the total elapsed time, and why do we have to go over it minute by minute?

If we assume that Mr. Pierce in preparing this was thoroughly honest—and I would never doubt that for a minute—why, we have everything that is being covered now already in exhibit form.

Mr. ELLIS. This testimony goes beyond the exhibit.

Chairman TERRIL. Is this all time that is not covered in the travel log that you have introduced, namely, Exhibits 46 and 47?

The WITNESS. Well, as mentioned before, Mr. Examiner, Exhibits 46 and 47 do not include the time at division points.

Chairman TERRIL. Well, is this time that you are now testifying to all time that is spent at these division points and which is not covered by these logs?

2168 The WITNESS. No; that is not true. It includes stops of miscellaneous types that are necessary, which are shown as total times on the exhibit.

Mr. ELLIS. This testimony——

Chairman TERRIL. I think we could very profitably limit this to a brief statement as to what it covers, Mr. Ellis.

Mr. ELLIS. This testimony does not go to merely criticism or analysis solely of what the Pierce operation has been in the past. That is shown by the north- and south-bound exhibits.

It goes to the question of whether or not it is practical to operate such a schedule as is proposed by the applicants in this case and requires some application of judgment to known facts.

Chairman TERRIL. Proceed.

The WITNESS. You also have the occasional tire failures. One tire failure will take an average of 45 minutes to make the necessary changes.

Checking equipment: We require in our operation that a driver stop every 50 miles, or hour and a half, and check his equipment, taking not to exceed 5 minutes unless he finds something wrong. We consider this a safety factor, and it has proven to be well worth the time that is spent.

2169 We have found at times by making these checks they find a flat tire that the driver wouldn't know about, and by finding that you avoid ruining a tire and possibly setting your unit on fire, because a flat tire operated too long will catch on fire.

Also these check stops are for the purpose of checking your lights, to see if your tail lights are burning and see if your trailer hitch and chains are in proper order. We also have had experience where we have saved—rather, avoided—a serious accident by checking the trailer fixtures and tongues.

By Mr. ELLIS:

Q. You found these check stops are necessary in the conduct of your operation?

A. They are necessary in the interest of safety of operation, in our opinion.

Q. And you probably——

Mr. BEROL. Are they not all included in the logs shown in Exhibits Nos. 46 and 47? I presume that those drivers were performing in accordance with the requirements of safety that this witness is talking about. Certainly they are already included in Exhibits 46 and 47.

Mr. IVERS. I suggest that Mr. Ellis be permitted to put his case in the way he wants to.

Chairman TERRIL. I think we are wasting more time with objections than we would to go ahead and allow the witness to proceed in an orderly manner.

2170 By Mr. ELLIS:

Q. Proceed.

A. Between Portland and San Francisco we have 9 stops of 5 minutes each requiring 45 minutes. That does not include stops at division points where the equipment can be tested without the necessity of any additional time.

Daylight traffic requires more time on account of the heavier traffic of other vehicles during the daylight hours. This can reduce speed as much as an hour between Portland and San Francisco.

You can also run into foggy weather on a run this long that can reduce your speed by 2 hours on a 700 mile run.

In hot weather up through the Sacramento Valley you cannot make the time that you would ordinarily where the weather conditions are not as they are there.

It is conservative to say that you can lose 30 to 45 minutes in the Sacramento Valley. Both of these applicants proposed daylight runs which would take them through the Sacramento Valley during the heat of the day.

You also in the mountainous territory can encounter snow and ice, and that likewise can on those occasions reduce your time as much as two hours or more.

There are occasional mechanical failures which would require from 15 minutes or more. And in addition to that, drivers find it necessary for safe operation to stop occasionally, 5 or 10 minutes, to buy a cup of coffee, which is the customary

2171 procedure. That time, not including these other points I have mentioned, would amount to 6 hours and 30 minutes; to be specific, include an hour and 30 minutes for change of drivers, 2 hours and 20 minutes for handling freight, 1 hour for eating, 40 minutes for fueling, 45 minutes for checking equipment, and 15 minutes for miscellaneous stops for coffee. It would amount to 6 hours and 30 minutes.

As previously mentioned, we have travelled 194 miles which required 8 hours and 48 minutes in the restricted zones, requiring less than 35 miles per hour. If we were to add on to this 8 hours and 48 minutes the 6 hours and 30 minutes stoppage time, you have 15 hours and 18 minutes.

Applicants propose a 25-hour total elapsed time between here and Portland, between San Francisco and Portland.

Deducting 15 hours, in round figures, 15 minutes, you have 9 hours and 45 minutes in which they have to make, or travel a distance of 525 miles which would require an average speed of 52½ miles per hour.

Mr. SCHAFER. What?

The WITNESS. Which would require——

Mr. SCHAFER. Nine hours for how many miles?

The WITNESS. Nine hours—or call it 10 hours. For 525 miles, it would require an average speed of 52½ miles per hour.

By Mr. ELLIS:

2172 Q. From you experience in operating trucks or cars have you any opinion as to what maximum speeds might be required to maintain that average of 52 miles per hour?

A. I couldn't say, Mr. Ellis, but I can say it would have to, in certain places, be in excess of the 52 miles an hour, or it would have to be excessive considering the conditions of the road in other places; I mean, in the mountainous territory, or where there is curves and grades.

Q. What is your opinion as to whether a proposed schedule of 25 hours between Portland and San Francisco can be maintained with safety to the public?

A. In my opinion it cannot. I do not mean to say by that that you cannot operate a through truck between here and Portland in 25 hours. It can be done. But it cannot be done, in my opinion, with safety.

And I would like to add further that with the use of the new Williamette Highway Pass, that would be some saving and there would be a few less turns on that route than by U. S. Highway 99 via Medford. It would make some difference.

Q. Are you in a position to say how much difference that would make?

A. I have not travelled that highway with trucks and I am not really in a position to make a fair estimate.

Q. Have you any opinion as to whether or not a 25-hour schedule could be solely maintained via that route in view of the distances and the conditions which you have just described

2173 which generally prevail?

A. I don't believe it can with safety.

Q. What have you to say concerning the practicability of the high-speed schedule such as proposed from the standpoint of its effect on their operating costs?

A. It is a known fact that increased speeds result in increased cost, especially on tire costs.

Q. Have you given some particular study to this subject of the effect of speed on operating costs?

A. Yes; I have. We know from experience that increased speed reduces your tire mileage.

In referring to a Goodyear Tire & Rubber Company booklet for truck and bus operations, I would like to refer to one of their charts.

Q. Is that information furnished to truck operators by Goodyear Tire & Rubber Company, and have you found it reliable and dependable?

A. I don't know how broadly it is furnished to the truck operators. At least this was furnished to me and gives some very valuable information as to truck operations.

Q. In your own practical experience have you found the information therein to check with your own knowledge of the subject, your own experience?

A. We do not have any figures to check the accurate percentages as to additional wear due to excessive speed. But we
2174 know that to be a fact, and the speed on the open road of 50 or, excessive speed, isn't the only factor which reduces your mileage. It can be reduced by excessive speed considering your road conditions and curvatures, and also by descending mountain grades at excessive speeds where you require considerable braking. That likewise takes—results in considerable wear on tires, more than it would at a moderate speed.

I have here, and I would like to refer to it, this Goodyear Tire & Rubber Company booklet, which was published this year.

"From a normal speed of 35 miles an hour to 45 miles an hour the in——"

Mr. BEROL. Counsel, is he now testifying of his own knowledge, or is he reading from some book?

Well, I would like the record to show it.

Mr. ELLIS. Well, I think the record shows quite clearly where he is obtaining this figure.

Chairman TERRIL. That is from the book published by the Goodyear Tire & Rubber Company, Mr. Pierce?

The WITNESS. That is correct. May I proceed.

Mr. ELLIS. Proceed.

The WITNESS. From 35 miles an hour, which is considered normal, to 45 miles an hour there is a difference of—or, rather,
2175 a reduction in the tire mileage of 21 percent. Transcribe that into increased cost and you have an increased cost of 26½ per cent on tire costs.

And referring further——

By Mr ELLIS:

Q. Suppose that should be increased to 55 miles an hour instead of 45? What would the result be?

A. From 45 to 55 it would show a decrease in tire mileage of 45 per cent, and from a normal speed of 35 to 50, it would show a decrease of 33 per cent in tire mileage, which amounts to 49 per cent increase in tire cost.

Q. Now, can you give us similar information as to the effect of mountain roads and curvature on tire wear?

A. Yes. The chart shows that tire mileage can be reduced as high as 50 per cent where you encounter an excessive amount of curvature and grades.

Q. Is that increase in tire wear likewise reflected by the degree of speed at which you operate over the curves and grades?

A. Oh, yes.

Q. What other items of operating costs are affected particularly by speed?

A. Maintenance cost increases. I have no basis, but I know from experience there is a slight increase in the maintenance cost due to excessive speed, and excessive speed also results in the use of more lubricating oil. And the most serious factor in my opinion
2176 is the possibility of being involved in accidents. That has become very expensive.

I have taken our total maintenance cost for the year 1939, which amounted to $20,375.10. If we were to increase our speeds to that as proposed by the applicants, oh, 10 per cent, it would amount to $2,037.51 in our operating cost on maintenance.

On tire costs, based on average speed of 40 miles, increasing from 40 miles to 50 miles per hour amounts to 26—amounts to a difference of 21 per cent, or an increase of 26.5 per cent. This would increase our tire cost, using the 1939 figures, by sixteen thousand nine—no, our total cost of $16,957.77 would increase on that percentage basis to $4,493.81.

Q. That last figure is the amount of increase over existing tire costs for one year?

A. That is true.

Q. Those are the only items of expense which you attempted to figure in dollars and cents?

A. Yes, sir.

Q. Now, with respect to the element of hazard or accident, the relationship of speed to highway accidents, what have you to say?

A. We know that wherever there is undue haste, that it results in an excessive amount of accidents, and exceeding the speed limit will cause one out of every three deaths. But speed too
2177 great for existing conditions causes nine out of every ten deaths, and I think these factors will bear out the folly of trying to make race tracks out of our highways.

The trucking industry as a whole is embarking on a public relations program in an effort to build up public goodwill. In my opinion it is——

Mr. SCHAFER. Just a minute. I am going to interpose an objection at this time. The Consolidated Freightways safety record is

in evidence, three-quarters of an accident per hundred thousand miles.

There is also testimony in this record that the speeds proposed and the schedules proposed here are average throughout their system.

Now, it will be appropriate for Mr. Pierce to show the safety record, if he can, but to embark upon an argument of this sort is going to take up a needless amount of time. Also it requires the same amount of cross-examination.

So I am objecting on the ground that it is not proper evidence in proceedings of this sort.

Chairman TERRIL. The witness——

Mr. BEROL. I object on the further ground that it is conjectural.

Chairman TERRIL. The witness is entitled to his opinion on the question on which he has testified.

The WITNESS: I think Consolidated Freight Lines is to
2178 be complimented and also the Oregon-California-Nevada Fast Freight on their very fine safety record.

Mr. BEROL. Have you any idea, Mr. Pierce, that the Oregon-Nevada-California Fast Freight is going to conduct its operations that it proposes in Oregon in a manner any different than that which has enabled it to build up the safety record of which you just spoke?

The WITNESS. I certainly have, Mr. Berol, which will be shown to you in a few moments.

Chairman TERRIL. The witness will proceed with his answer, please.

The WITNESS. Where was I?

By Mr. ELLIS:

Q. You were about to express an opinion as to the——

Chairman TERRIL. Can you give him the place where he was interrupted?

By Mr. ELLIS:

Q. The effect on the public of increased speeds?

A. I would like to refer to Mr. Schafer's remark about Consolidated's safety record.

It is my understanding that they have a very commendable safety record, and also the Oregon-Nevada-California Fast Freight. But if these applications are granted and they operate
2179 on the schedules which they propose, I am afraid that the excessive speeds which are required—they will not maintain on these operations the safety records that they have so well established in the past.

I might say that our safety record in the past year and a half has also been very good. We have traveled one million four

hundred thousand miles in the past two years without a serious accident, and we are going to be placed in this position, which I trust we will not have to be placed in: The public, we all know, likes to have fast service, and I think the public is entitled to the best service that can be economically and safely rendered. But if these applicants render the service which they propose, Piere Auto Freight Lines, as well as other operators, if they are to maintain the business they are now handling or remain on a competitive basis, are going to be forced to speed up their schedules and, frankly, I hope that I am not placed in that position.

I don't consider speeds as will be necessary——

Mr. BEROL. Let the record show that I am objecting to this line of testimony.

Chairman TERRIL. I think the subject could be very well treated in briefs or in argument of counsel, but on behalf of the witness I do not think it is entirely proper in this record.

By Mr. ELLIS:

Q. Do you believe, Mr. Pierce, that you could operate a 25-hour schedule between San Francisco Bay and Portland safely?

2180 A. I answered that a while ago. I don't think so, not taking into consideration all your stops that are necessary.

Q. Now, have you, for the purpose of this record, made an analysis of the trip logs of Oregon-Nevada-California Fast Freight showing its operations between San Francisco and Medford?

A. Yes; I have.

Q. Do you have an exhibit embracing the results of that analysis before you?

A. I have.

Mr. ELLIS. I ask that it be marked for identification the next exhibit number.

The WITNESS. Which one are you referring to?

Mr. ELLIS. North-bound.

Chairman TERRIL. Mark it for identification as No. 48.

(Exhibit 48, Witness Pierce, marked for identification.)

By Mr. ELLIS:

Q. Have you likewise prepared a similar statement, a similar source, covering the south-bound operations of the Oregon-California-Nevada Fast Freight?

A. I have.

Mr. ELLIS. I ask that that be marked for identification as Exhibit 49.

Chairman TERRIL. It will be so marked.

(Exhibit 49, Witness Pierce, marked for identification.)

By Mr. ELLIS:

2181 Q. Referring to Exhibits 48 and 49 for identification, will you state from what source these were prepared?

A. Exhibits 48 and 49 were prepared from information taken from the Oregon-Nevada-California Fast Freight Lines I. C. C. truck logs.

Q. Were they furnished to you at your request during the conduct of this proceeding?

A. They were.

Q. Will you state why you selected from those truck logs the particular periods which are shown on these exhibits instead of attempting to show all of the trips?

A. Well, it is considerable work to prepare an exhibit of this type, and I took in this particular period as a more recent period and it didn't make any particular difference so far as what time we compiled the records for.

Mr. SCHAFER. May I ask the mileage between San Francisco and Medford? Do you know it offhand, Mr. Pierce?

The WITNESS. About 410, I believe.

By Mr. ELLIS:

Q. Did you endeavor to include in Exhibits 48 and 49 typical or representative trips as soon by the trip logs which you examined?

A. No. We just took them all. I wouldn't use the word "typical." We took all there were for the given dates as shown on this exhibit.

2182 Q. Did you examine other dates as shown by the trip logs to determine whether or not these were typical of other weeks?

A. Oh, yes.

Q. Shown in the trip logs which you examined?

A. Yes.

Q. Now, referring to these two exhibits, 48 and 49, would you make such comment as you care to make?

A. Referring to these two exhibits, referring to the southbound movement it shows a departure time—the date and departure time from Medford and the arrival time in San Francisco.

Exhibit 49——

Mr. BEROL. Just a minute. I am going to object to any further testimony until a proper foundation is laid as to what is contained in Exhibits Nos. 48 and 49.

For example, taking any one of these items, there is nothing in the exhibit to indicate as to what particular truck was involved. For all we know one truck left San Francisco, as to its departure time, and it might have been some other truck or a third truck or

fourth truck that arrived in Medford, as to its arrival time. There is not anything in this exhibit to connect up with the particular truck, there is not anything in this exhibit to connect any delays en route, or any stops en route.

All we have here is a departure from San Francisco and arrival at Medford.

Now, there is not anything here to show that. Take the
2183 first item for example: Departed from San Francisco on April 1st, 1:00 a. m., arrived in Medford on April 2nd, 2:30 p. m.

Now, how do we know that that is the same truck? That truck might have been to Medford and back to San Francisco and back to Medford again.

Mr. ELLIS. We are certainly entitled to make that showing, Mr. Berol. But this is information shown by the truck logs, as the witness has shown.

Mr. BEROL. May I ask the witness a few questions before proceeding with the objection further?

Mr. ELLIS. I have no objection.

Voir dire examination by Mr. BEROL:

Q. Mr. Pierce, on these logs which you examined was there anything there to indicate as to what particular truck was represented by any particular log?

A. On a few of them there were. But unfortunately, for some reason, the truck numbers are not shown on the various portions.

Q. In the absence of a showing as to truck numbers, all you have is drivers to indicate the amount of time that may have been spent in driving and in not driving in any particular 24-hour period; is that not true?

A. Well, Mr. Berol, we have here all the trucks that departed north-bound from San Francisco, according to the logs that you furnished us, going up through Redding, and the total
2184 number of trucks that arrived in Medford.

Now, as to matching those up, we grant we are not attempting to do that. We are just showing how many trucks left here, the time they left and the time they arrived at Medford.

Q. You cannot do it; can you?

A. No; it would have been possible had the——

Q. Can you——

Mr. ELLIS. Let the witness answer, please.

The WITNESS. It would have been possible had the truckloads been complete with the unit numbers.

By Mr. BEROL:

Q. But without the truck logs having on them the unit numbers, it is impossible to do that; is it not?

A. It is impossible to trace a particular truck through, but that is immaterial. All we are interested in here is to show the departure time and the arrival time.

Mr. BEROL. I ask that Exhibits 48 and 49 be stricken on the ground that they are incompetent, irrelevant, and immaterial, and on the ground that the witness in his own testimony has indicated that he had no knowledge or foundation to construct such exhibits.

Mr. ELLIS. If the Board please, as the witness has indicated, they are prepared from the truck logs of the party on whose behalf this protest is being made, and I am surprised, indeed, that
2185 counsel should state his objection and his sole objection, on the failure of his own company, the employees of his own company to properly keep his truck logs. That is not our fault.

Mr. BEROL. I will state that the Commission requires the keeping——

Chairman TERRIL. Just a minute, Mr. Berol.

Mr. ELLIS. Had these truck logs been kept with the information which counsel refers to, showing the truck number in each instance, there would be no room for opportunity for his criticism.

It has lessened, we admit, the value of the information as to tracing an individual truck, but certainly the Commission and the parties are entitled to the best information that is available from those records as to the departure time and as to the arrival time. And that is the sole purpose for which this exhibit is introduced. It is the best evidence.

If counsel or his client can furnish better information, we are happy to have it, and it is their duty to furnish it.

Mr. BEROL. It is certainly not our duty to furnish any information of that kind with respect to the keeping of logs.

And I wish to point a moment to the rule. There is not anything in the rules and regulations of the Commission that requires or suggests that any particular log have contained thereon
2186 the number or the designation of the truck that was driven by that particular driver.

Now, I say that if that information was available, if there was any way of connecting the particular equipment with the particular driver, then I would certainly say that evidence of this kind is competent and proper. But we have had evidence here that the witness himself has indicated he cannot testify that it is proper. He cannot trace any particular piece of equipment from San Francisco to Medford and, as I say, by the first item, when the witness here is offering a document that seems to indicate that it has taken two days to go from San Francisco to Medford, that is all

that I need to know to conclude that the entire document is as ridiculous as it can be and not based upon any facts.

Now, I say in view of this that to admit documents as Exhibits 48 and 49 that the witness himself says are most conjectural, and the witness has indicated——

Mr. ELLIS. I object to that statement. The witness did not state that.

Mr. BEROL. Let me finish, counsel, please.

I renew my objection.

Mr. FARRENS. If the Board please, I am not concerned with whether these exhibits are competent evidence, but I am concerned with the form of the motion to strike physically from the record, which is the sole matter pending before the Board at this time.

2187 The Board does not have the authority and the power to strike physically from the record. If it did have that authority, it would be the sole judge of the admissibility of evidence.

Mr. BEROL. Well, in order to save time, I do not care whether it is physically stricken from the record or not, and I will withdraw my objection at this time, and I will renew it when the documents are offered.

But in the meantime, I do not want any further testimony pertaining to these documents until they are offered in evidence.

Mr. IVERS. Mr. Chairman, if you will recall, Mr. Gritsch on the stand testified in general as to the time of departure of the Oregon-Nevada-California Fast Freight equipment from San Francisco and Bay area and generally as to its time of arrival in Medford.

Now, if these exhibits were not pertinent for anything else, they certainly augment the general testimony which Mr. Gritsch gave by specifically showing the departure times of all trucks leaving on a given day from the San Francisco Bay area and the specific times of arrival of all the trucks that arrive at Medford.

Mr. ELLIS. That is the purpose for which they were prepared, and that is the purpose for which we propose to offer them.

2188 Mr. SCHAFER. I have not had an opportunity to express an objection to these documents, but I would like to object on the further ground that Mr. Pierce professes to have taken these from the I. C. C. logs of these drivers. In his own case when he prepares an exhibit to represent his own times he is careful to show the stops enroute and the length of those stops and totals of the elapsed time as compared to the running time.

He has not indicated that the same information was not contained in the logs of the Oregon-California-Nevada Fast Freight drivers, but he has carefully avoided putting that information in here.

For that reason it appears to me it would be an unfair procedure to compare one with the other.

Chairman TERRIL. All of these objections might go to the value of this exhibit, but as to whether or not it should be included in this record is another question.

Mr. BEROL. They go to the admissibility.

Mr. ELLIS. At this time I offer in evidence Exhibits 46 to 49, inclusive.

Mr. BEROL. I have no objection to Exhibits 46 and 47.

Now, I am objecting to Exhibits 48 and 49, and I would like to ask the witness one further question before renewing my objections.

By Mr. BEROL:

2189 Q. Now, Mr. Pierce, as far as these logs are concerned, they contained the name of the driver; did they not?

A. Yes, sir.

Q. And they showed on the form that it is contained in as a part of the log, the time spent in driving and the time spent in loading or unloading; did they not?

A. It is my recollection they did.

Q. It also showed the time spent for stops in excess of 20 minutes; did they not?

A. I think that is true.

Q. Now, then, did the log indicate any place as to the town at which the driver took the truck or the town at which he commenced driving and the town in which he ceased driving?

A. Yes.

Q. And those towns are written on the log?

A. Yes, sir.

Q. In each and every case?

A. To my knowledge it was.

Q. Well, you know, do you not? You prepared the exhibit?

A. Well, it has been a couple of months. In other words, we took all the logs covering trips from San Francisco to Redding and we took all the logs showing the arrival and departure from Medford.

Q. Now, Mr. Pierce, I do not want to be unfair with you, and in order to refresh your recollection, will you look at

2190 Exhibit No. 49?

A. O. K.

Q. Now, you show here arrival at Medford on April 2nd, on April 3rd, on April 4th, on April 5th, on April 6th—well, practically every day which you show here indicates Spencer as the driver having arrived at Medford with a truck.

Do you know Spencer?

A. No; I don't believe I do.

Q. Well, will you still state that this is accurate, Mr. Pierce, if I say to you that throughout this period Spencer never made a single trip to or from Medford? Will you still state that this exhibit is correct?

A. To or from Medford, from where, Mr. Berol?

Q. From any place.

A. You want to tell me that he didn't go out from Medford to pick up trailers and take them into Medford?

Q. That is exactly what I am telling you.

A. No.

Q. Now, in view of that do you still want to stick to your testimony?

A. I still stick to my testimony. This information was compiled from your own truck logs. I can't help who the driver's name is on there. It is immaterial to me.

Q. If I were to tell you that Spencer drives from Mt. Shasta to Klamath Falls and not to Medford, would you then state
2191 that the logs that you used are specifically logs of trucks going to and from those points?

A. We excluded Klamath Falls. If you say he didn't drive to Medford, then these logs are made in error, in my opinion.

Mr. BEROL. I am renewing my objections at this time on the ground that the exhibits were apparently not, from the testimony of the witness himself, properly or accurately prepared.

And in renewing my objection, I will say this:

On the further ground, in view of the fact that there is some dispute between the exhibits and the underlying documents from which they were taken; that the exhibits are not the best evidence; that the underlying documents from which they were taken are the best evidence; that the best evidence is in our possession, and we will produce it.

The WITNESS. May I make a statement? I would like to refer to Mr. Weisler's Exhibit No. 7, which gives similar information as to arrival time which will bear out the exhibits that we have.

Mr. SCHAFER. I would like the opportunity to join with Mr. Berol and point out why it would be particularly unfair to Consolidated Freightways.

It is in this record that Oregon-California breaks a truck and trailer at the line. How long a trailer lies there before a
2192 tractor comes out to get it is indeterminable, and if is to be taken as typical of operating times between San Francisco and Medford for the purpose of showing the impracticability of the schedules proposed by Consolidated, it is incompetent for that reason also.

Chairman TERRIL. Mr. Berol; do I understand that the drivers' logs upon which this purports to be based will be offered?

Mr. BEROL. I am not saying they will be offered, but they will be produced for these protestants if he wants to offer them. That is the best evidence, and we will make it available to him.

Mr. ELLIS. If the Board please, that does not serve the purpose of the offer in any respect. It is the privilege of the parties protesting, in the event that they believe error exists in these exhibits, or in the event they believe their drivers' logs have been misinterpreted, to present those drivers' logs and to show wherein error has resulted or wherein these exhibits have misinterpreted those drivers' logs.

However, the introduction of the drivers' logs, if you ever see them, would serve no other useful purpose. They would not serve the purpose sought to be served by these two exhibits, which are merely to show two facts, the departure time of each truck—merely to show two facts, first, the departure time of trucks of this
2193 operator out of each terminal point and, secondly, the arrival time of their trucks at each terminal point.

There is some very general and uncertain testimony that has been given by the applicants concerning these items of arrival and departure. They have made it a particular point in the presentation of their case, apparently in substantiation of their ability to maintain the 25-hour schedule.

It may develop in comparing these arrival times, even though the trucks are not matched up and no attempt is made to match them up—it may appear that over this period of operations the applicants have not maintained the schedules which their oral testimony would indicate they have maintained.

For the purpose of giving the Board accurate information on those facts, these exhibits were prepared. Counsel is at liberty to examine them, and being the custodian of the original records, they can be checked accurately, and that is their privilege.

Mr. BEROL. I have no objection to the receipt of the exhibit for the purpose offered if it was properly prepared and presented.

Now, I say that in the first place no proper foundation has been laid, and in the second place, it is not the best evidence.

I renew my objections on those grounds.

Mr. FARRENS. I would like to ask counsel a question as
2194 to what this exhibit 49, for example, is proposed to show?

Is it proposed to show, Mr. Ellis, for example, this first truck mentioned in the left-hand column, namely, the truck which left 4/1 at 9:00 a. m., and was driven by Gritsch, that is was the same truck which arrived at San Francisco 4/2 at 6:00 a. m., driven by Rose?

Mr. ELLIS. No; it is not. Those facts are not ascertainable from the trip logs.

Mr. FARRENS. I see.

Mr. Ellis. Merely to show that a truck driven by Gritsch left at 9:00 o'clock, another driven by Marrs left at 12:40 p. m., another one left at 4:40 p. m.; that on the following day three trucks are shown as having arrived in San Francisco at 6:00 a. m., 9:00 a. m., 9:40 a. m.

Mr. Berol. That is a different matter than what the witness was testifying to.

Now, if it may be understood and stipulated that the only purpose of these two exhibits is to show first, for example, referring to Exhibit No. 48, that 6 trucks left San Francisco on April 1st, ranging in time from 1:00 a. m. to 9:00 p. m.; that on April 2nd, 5 trucks arrived in Medford, ranging in time from 2:30 p. m. to 8:30 p. m., and that the trucks that left San Francisco are not necessarily the same trucks that arrived in Medford and that the indicated time between the departure in San Francisco and
2195 the arrival in Medford does not represent the time elapsed by any particular trucks, then I will withdraw my objections.

Mr. Ivers. I think that has been explained as the purpose.

Mr. Berol. It has been explained only pursuant to the questions asked by Mr. Farrens.

If it may be understood and stipulated that that is the only thing intended to be shown by Exhibits 48 and 49, I will withdraw my objection.

Chairman Terril. Is that the purpose?

Mr. Ellis. That is the correct purpose. And if you had understood the answer of the witness, I think you would have gathered that earlier. The witness did so state.

Mr. Berol. The witness was talking about the elapsed time.

Mr. Ellis. He told you he had not attempted to match up departing trucks with drivers.

Mr. Berol. In view of the stipulation, I am satisfied, and I withdraw my objection.

Chairman Terril. Do you want to withdraw your objection, Mr. Schafer?

Mr. Schafer. No; I want my objection to stand, and on the further ground that there is no way of telling the vehicle that came in, whether it was a tractor or a trailer, whether it was
2196 laying at the state line, whether this represents all of the vehicles that arrived on that day.

So I would like my objection to stand.

Chairman Terril. The objections will be overruled and the exhibits will be received in evidence, and you may have an exception. That applies to Exhibits 48 and 49.

Mr. Ellis. Do I understand that all of the exhibits so offered are received in evidence?

Chairman TERRIL. That is Exhibits 46, 47, 48, and 49 are received in evidence.

(Exhibits 46, 47, 48, and 49, Witness Pierce, received in evidence.)

The WITNESS. May I have a few moments.

Chairman TERRIL. We will take a short recess.

(Whereupon a short recess was taken.)

Direct examination (resumed) by Mr. ELLIS:

Q. Referring to the subject of refrigerated commodities or commodities requiring refrigeration, Mr. Pierce, I will ask you whether or not you have in service at the present time any mechanically refrigerated equipment?

A. Yes; we have.

Q. Is that in operation between Portland and San Francisco?

A. It is part of the time. It has been regularly, and a portion of the time it is operated into San Francisco, whenever necessary, as far as mechanical refrigeration is necessary.

2197 Q. Is the picture which I show you a photograph of such a unit?

A. It is.

Mr. ELLIS. I will ask that this be received in evidence and marked Exhibit No. 50.

Chairman TERRIL. Any objection? Hearing none, it will be received and marked as Exhibit No. 50 in this matter in evidence.

(Exhibit No. 50, Witness Pierce, received in evidence.)

By Mr. ELLIS:

Q. Will you briefly describe the type of equipment which is shown by Exhibit No. 50?

A. The trailer body only is insulated and carries a mechanical refrigerating unit.

Q. In the practical operation of your line, what have you found as to the need for, or the necessity for mechanical refrigeration?

A. We haven't, to my knowledge, had any demand for mechanical refrigeration.

Q. What has been the normal method by which you have handled products requiring refrigeration?

A. We have used wet ice for the brine and dry ice.

Q. Have you found that to be not only practical, but to meet the requirements of your shippers?

A. It has so far, at least.

Q. In what instances, or in what type of traffic, if any, is
2198 the mechanically refrigerated equipment desirable?

A. Well, it is more practical where you have full load lots and undoubtedly is satisfactory on most all types of merchandise.

Q. What do you find as to the desirability of making general use of mechanically refrigerated equipment in the normal conduct of a line haul such as you operate?

A. Many of my shipments running throughout the year are less than truckload lots, and from a practical standpoint it doesn't work out or justify refrigerating an entire unit mixed with other types of merchandise, and we have found that through the use of dry ice and the use of blankets that we have been able to handle butter and cheese and other types of merchandise satisfactory to the shippers, at least, on—I am not aware of any complaints.

Q. As to the final result of operations, or as to the operating costs, what factors are important to consider?

A. Well, this unit costs us, that is, the mechanical refrigeration unit, costs us between $900 and $1,000. It requires a certain amount of maintenance, and it will weigh from 800 to a thousand pounds.

We have besides this mechanical refrigerating unit other insulated bodies, and we also have other bodies which are not insulated. We have handled on the bodies that are not insulated refrigerated products with the use of dry ice and
2199 wet ice and have had very good success.

I think the mechanical refrigeration is a very fine method of refrigerating, but the reason we hesitate to equip our units with mechanical refrigeration is on account of the additional weight and also the investment, and the further fact that we have use for the mechan— or use for refrigeration only a small part of the time. Most of the shipments which we have handled requiring refrigeration move south-bound, and I wouldn't—I would estimate that the times that we have needed refrigeration would be less than 20 percent of the time and which would require us to carry around this additional weight which reduces your pay load, and when you do have traffic it will justify or permit full load capacity in weight.

Q. In dollars and cents what does this reduction in pay load amount to?

A. Assuming that we were to use a freight body that wasn't insulated and not carrying the mechanical refrigerated unit, there would be an approximate difference at least of 1,500 pounds. If we were to combine a truck and trailer unit and refrigerate and insulate both, you would have an excess weight of 3,000 pounds.

Q. Does that cut down your revenue load by that amount?

A. It would. And based on a third class rate between here and Portland of $1.26½ that would amount to $37.95, which we——
2200 Q. Per truck?

A. Per truck and trailer or per unit, which we would be precluded from receiving on account of the additional weight.

That would only be true, however, when we have freight of a type that we could load to capacity. If it were bulky freight, it wouldn't interfere so much.

However, these units likewise take up additional loading space. There are different types. The type we use on this unit, the mechanical unit, is underneath the body, but it requires a blower and a blower inside, and the cooling unit, which takes up considerable space.

Chairman TERRIL. Mr. Pierce, how long have you been operating this piece of equipment?

The WITNESS. We installed this mechanical unit a month and a half, two months ago.

Chairman TERRIL. And you are using it over the road in all of your operation regardless of whether you are using refrigeration or not?

The WITNESS. Yes.

Chairman TERRIL. In this period of time that you have actually operated, as a practical thing have these objections made any difference in your pay load or in the amount of traffic that you are able to carry?

The WITNESS. Well, I can't say definitely whether it has or hasn't. But I know it can, depending on the type of
2201 freight. I don't load or unload the units.

Converting this additional loss in carrying capacity of $37.95 into a round trip would be $75.90, or yearly, $5,464.80.

But I want it understood that you can only list it in that manner when you have a type of freight that you can load to capacity in weight only a small amount as far as space is concerned.

By Mr. ELLIS:

Q. Will you just briefly describe the quantity of equipment which Pierce Auto Freight Lines is operating at the present time; how many units you are operating?

A. We are operating a total of 18 road units. That includes truck and trailers.

Q. 18 trucks and 18 trailers?

A. No. 18 units, a unit meaning a truck and a trailer, and about the same number of pick-up units.

In San Francisco the Valley Express handle—and Oakland—handle our pick-ups and deliveries.

Mr. SCHAFER. Pardon me. I am not clear now. You say 18 units. You call a unit a truck and a trailer?

The WITNESS. That is correct.

Mr. SCHAFER. In other words, 18 spreads, as we call them?

Chairman TERRIL. That would be 36 pieces of equipment?

Mr. SCHAFER. Yes.

Chairman TERRIL. Separate pieces of equipment?

2202 The WITNESS. Well, that again would—

Chairman TERRIL. Well, you have necessarily 18 tractors and 18—I do not mean tractors, but motive units and 18 trailers; is that right?

The WITNESS. That is true.

Mr. SCHAFER. Thank you.

By Mr. ELLIS:

Q. Now, what, just in a general way, terminal facilities do you maintain?

A. We have terminal facilities in Portland, in the East Side Auto Freight Terminal. We have a terminal at Eugene, one at Roseburg, at Grants Pass, one at Medford and in Oakland and San Francisco the Valley Express represent us, and at all intermediate points we have commission agents where the tonnage justifies.

Q. Do you furnish pickup and delivery service at all points where you have terminals?

A. We do.

Q. What has been your experience with respect to the Saturday loading?

A. Since the enactment of the Federal Wage hours, the Federal Law governing maximum hours and minimum wages, there has been a very definite tendency on the part of the shippers to close on Saturday and that has resulted in very light loadings on Saturdays out of the cities.

I compiled Saturday loadings for the period February 12

2203 to July 27, 1940, as compared with the average daily loadings of the other five days of the week, and found that our Saturday loadings were only 44 percent of our week day average loadings.

For that period we operated one unit plus on seven Saturdays, on ten Saturdays two units plus; five Saturdays three units plus; one Saturday four units; and one Saturday five units, which shows that the Saturday loadings are very slight; in fact, are getting lighter on account of the closing of the shippers.

Q. What relation does that condition have to the applications here pending?

A. If we were to—if applicants were to operate the schedules which they propose on Saturdays, undoubtedly their Saturday loadings would be very, very light, because this situation reflects throughout the industry and is not just a situation confronting our company.

Q. Did you hear the testimony of the Witness W. G. Stone, on behalf of the Sacramento Chamber of Commerce?

A. I did.

Q. In connection with recent proceedings, particularly in connection with your application on rehearing, did you have any contacts with Mr. Stone on or about October 25, 1939?

A. I wrote the Sacramento Chamber of Commerce requesting they furnish certain industrial information in regard to the
2204 Sacramento vicinity.

Q. By industrial information, what do you mean?

A. As to the numbers of industries located there who would be potential shippers in and out of the Sacramento territory.

Q. Did you receive a response from Mr. Stone to your request for that information?

A. I did.

Q. I hand you a letter dated October 25, 1939, on the letterhead of the Sacramento Chamber of Commerce and apparently signed by W. G. Stone, and I ask you if that is the letter which you received in response to that request?

A. Yes; it is.

Mr. ELLIS. I offer in evidence this letter.

Mr. BEROL. Just a minute. I would like to read it, please.

I have no objection.

Chairman TERRIL. I do not believe you completed your offer; did you?

Mr. ELLIS. Yes; I offered it.

Chairman TERRIL. Hearing no objection, the letter will be received in evidence and marked as Exhibit No. 51 in this matter.

(Exhibit 51, Witness Pierce, received in evidence.)

Chairman TERRIL. I think we might adjourn at this time.

Does anyone need over an hour this noon?

2205 One-thirty, then, gentlemen.

(Whereupon, at 12:20 p. m., adjournment was taken to 1:30 p. m. of the same day.)

2206 AFTERNOON SESSION 1:30 P. M.

Chairman TERRIL. Proceed.

A. C. PIERCE resumed the stand and testified further as follows:

Direct examination (resumed) by Mr. ELLIS:

Q. Mr. Pierce, are you familiar with the operations of the K. & L. Truck Lines?

A. I am.

Q. Have you been authorized to give certain testimony in their behalf in this proceeding?

I. I have.

Q. Do you have that right and authority?

A. I do.

Q. And the K. & L. Truck Lines, between what points does it operate?

A. Between Grants Pass, Oregon and Crescent, California, on a daily fixed termini operation.

Q. Who operates that line?

A. Mr. Clay Sugg.

Q. Have you presently examined the records of that company and obtained and verified certain statistics covering their traffic handled?

A. I have.

Mr. SCHAFER. Perhaps I should wait for some more qualification, but it appears at this point that this witness is
2207 going to attempt to testify for the K. & L. Truck Line merely because they told him he could.

Mr. ELLIS. Merely because he was authorized to and because he has examined their records and obtained traffic data from their records.

Mr. SCHAFER. Records which were not prepared by him and under his direction, and the person who did is not here present for cross-examination.

Mr. ELLIS. Mr. Pierce did not keep their books, unless I am mistaken.

Mr. SCHAFER. I will object. That is incompetent testimony.

Chairman TERRIL. The witness may testify to facts that are within his knowledge.

Mr. IVERS. In addition to that, there is nothing before the Board.

By Mr. ELLIS:

Q. Have you obtained, Mr. Pierce, from the records of the K. & L. Truck Line data showing the amount of tonnage transported by that line over certain periods of time?

A. I asked them to furnish me certain information, and they checked their books to verify the information which they furnished to me, and I have that information before me.

Q. What does that disclose as to the volume of tonnage handled over that line?

2208 Mr. SCHAFER. Objected to on the ground that it is incompetent testimony and hearsay testimony obtained from a source that is not present at this hearing.

Chairman TERRIL. The objection will be sustained.

Mr. ELLIS. May the record show an exception to the ruling?

Chairman TERRIL. It may show.

By Mr. ELLIS:

Q. Mr. Pierce, have you any comment to make in concluding your testimony as to the direct effect which the granting of either or both of these applications would have on the Pierce Auto Freight Lines?

A. Yes; I have.

Q. Will you make such comment?

A. If either or both of these applications are granted, it will further divide the tonnage which is available for movement between the northwestern points and San Francisco or California points, and at the present time especially south-bound there is insufficient tonnage to justify or make possible a profitable operation. A further division of traffic—these applicants would be forced to secure additional tonnage in order to maintain their operations, and to secure that additional tonnage undoubtedly they would have to take from the tonnage of the traffic that we are now handling to help increase that traffic.

Q. Could you maintain the operation which you now conduct from San Francisco Bay to Portland, particularly the portion of the line between San Francisco Bay and Medford if you
2209 were to suffer any substantial loss in traffic?

A. No. It would be very difficult to do so.

Q. Have you had any negotiations with, or formulated any plans or arrangements for, the interchange of equipment with connecting lines at Portland for the handling of traffic destined from Oregon or California points to the Puget Sound area?

A. I have discussed with one of the Portland-Seattle carriers that, and they advised, said they would be glad to interchange equipment providing there was sufficient volume of traffic to justify it.

Q. Are you willing to provide such service in the event sufficient traffic can be developed to justify it?

A. We are.

Q. Are you likewise willing to interchange equipment with Valley Express at San Francisco for the handling of tonnage to or from points south of San Francisco?

A. We are.

Mr. FARRENS. If it is agreeable to the Board—and I understand it is agreeable to Mr. Ellis—in view of the fact that I have got to get out tonight on this train, I would like to ask that cross-examination of Mr. Pierce be deferred, and I be permitted to permit Mr. Henness on now.

Mr. ELLIS. That concludes the direct.

Chairman TERRIL. At the conclusions of the direct, I think that would be a very satisfactory arrangement, Mr.
2210 Farrens.

Mr. SCHAFER. I will be glad to accommodate counsel.

Mr. ELLIS. That concludes the direct examination.

Chairman TERRIL. With that understanding, you may step aside, Mr. Pierce.

(Witness temporarily excused.)

Mr. FARRENS. Mr. Hennessy.

JOHN E. HENNESSY was sworn and testified as follows:

Direct examination by Mr. FARRENS:

Q. State your name, residence, and occupation.

A. John E. Hennessy, Palo Alto, California. I am employed by the Southern Pacific Company, 65 Market Street, San Francisco, in its Bureau of Transportation Research.

Q. What are the functions and duties of the Bureau of Transportation Research?

A. The Bureau makes operating and economic analyses of transportation matters, and also prepares and submits evidence thereof before the various regulatory bodies and the courts.

Q. Is Southern Pacific Company a member line of the Pacific Southwest Railroad Association?

A. It is.

Q. What is the Pacific Southwest Railroad Association?

A. Pacific Southwest Railroad Association is an organization composed of the trunk line railroads in a Pacific Southwest
2211 territory, that is, the Atchison, Topeka and Santa Fe, Western Pacific, Union Pacific, and Southern Pacific; numerous short line railroads in this territory, and the Railway Express Agency, Inc.

Q. And in these proceedings, are you appearing as a witness for the Pacific Southwest Railroad Association, as well as for the Southern Pacific Company and its affiliates?

A. I am.

Q. Have your made an investigation to determine the rail and coordinated rail-truck facilities now being offered for the transportation of freight in the territory embraced by the application?

A. I have.

Q. What is your first exhibit?

A. My first exhibit is a map entitled "California Railroads." Dealing particularly with the territory involved in these applications, it shows that Southern Pacific Company operates lines of railroad from the San Francisco Bay Area, Stockton and Sacramento northward through the Sacramento Valley, the line up the west side through Willows being closely paralleled by U. S. Highway 99-W, and the line through Marysville on the east side being paralleled by U. S. Highway 99-E. These lines join at Tehama,

California, and continue to Black Butte, where they diverge, one line crossing the Siskiyou Mountains and entering Oregon
2212 near Ashland; the other line passes through Bray and Dorris and enters Oregon below Klamath Falls. The Western Pacific operates a line of railroad from the San Francisco bay area through Stockton and Sacramento, thence via Oroville to Keddie, from which point their northern California extension runs to Bieber, California, where connection is made with the Great Northern Railway, which line operates into Klamath Falls.

Q. Is there a line of railroad operated along the Coast, northward from San Francisco?

A. Yes. The map shows the line of the Northwestern Pacific Railroad from San Francisco to Eureka, California, through Healdsburg and Ukiah. This line is closely paralleled by U. S. Highway No. 101.

Mr. FARRENS. I offer in evidence the exhibit to which the witness has just referred.

Chairman TERRIL. Any objection?

Mr. BEROL. None.

Chairman TERRIL. Hearing no objection, the exhibit referred to will be received in evidence and marked as Exhibit 52 in this matter.

(Exhibit No. 52, Witness Hennessy, received in evidence.)

By Mr. FARRENS:

Q. What is your next exhibit?

A. My next exhibit is entitled "Map of the Portland Division, Southern Pacific Company," and it shows the rail lines of the Southern Pacific Company, as well as other rail carriers in Oregon, in the territory generally west of the Cascade
2213 Range.

Q. Preliminary to the presentation of your next exhibit, will you state briefly what has been the practice of Southern Pacific Company in recent years leading to the expedited movement of freight between points on its lines?

A. In recent years, Southern Pacific has adopted the practice of handling "Overnight Merchandise Trains." Specially constructed equipment is required, such as steel-wheel cars, equipped with passenger train signaling and air brake devices. These cars are operated either in solid trains, or are handled in the head end of a passenger train, providing passenger train service for freight. Eighteen overnight merchandise trains are now in operation. In this territory we operate the "Southern Oregon Overnight" from San Francisco, Oakland, and Sacramento to Ashland, Medford, Grants Pass, and Klamath Falls; the "Rogue River Valley Overnight South" from Portland to Roseburg, Grants Pass, Medford,

Ashland and intermediate points; the "Rogue River Valley Overnight North" from Ashland, Medford, Grants Pass and Roseburg to Portland; the "Klamath Falls Overnight" from Portland to Klamath Falls; the "Coos Bay Overnight South" from Portland to Reedsport, Marchfield and intermediate points; and, in the reverse direction, the "Coos Bay Overnight North."

The Northwestern Pacific operates the "Eureka Overnight," both north and south, between San Francisco and Oakland,
2214 on the one hand, and Eureka, California, on the other hand.

Q. Did Southern Pacific Company make any other changes in its practices in order to expedite the movement of freight?

A. Yes. Through its subsidiary the Pacific Motor Trucking Company, a trucking service is coordinated with the rail service to give the smaller communities the same service as is enjoyed by the larger centers.

Mr. FARRENS. The map of the Portland Division of the Southern Pacific Company is offered in evidence as Exhibit 53.

Mr. BEROL. No objection.

Chairman TERRIL. It will be marked as Exhibit No. 53 in this matter.

(Exhibit No. 53, Witness Hennessy, received in evidence.)

Mr. BEROL. Before you leave the map, Mr. Farrens, I notice that it is dated January 1921.

I wonder if there have been any changes in the rail mileages and locations since that time.

By Mr. FARRENS:

Q. Would you answer that question, please, Mr. Hennessy?

A. As the map shows, Mr. Berol, it has been revised to October 1, 1938, right below the scale of miles and there have been no changes of any importance since that time.

Q. Have you prepared an exhibit showing these trucking operations in California and Oregon, so far as interstate traffic is concerned?

A. I have.

2215 The exhibit is entitled "Interstate Operations of Pacific Motor Trucking Company in California and Oregon as of September 26, 1940," and reflects conditions as of today. It is divided into "present operations" and "proposed operations," with the status of each operation before this Commission noted in the last column.

Mr. FARRENS. At this time I offer the exhibit referred to by the witness as Exhibit No. 54.

Chairman TERRIL. Any objection?

Mr. BEAROL. No objection.

Chairman TERRIL. Hearing none, the exhibit will be received and marked Number 54 in this proceeding.

(The Exhibit No. 54, Witness Hennessy, received in evidence.)

By Mr. FARRENS:

Q. Will you please explain how this coordinated rail-truck service is an improvement over the straight rail service?

A. Using the first operation described, Brawley-Westmorland, for illustrative purposes, the former practice of handling freight for Westmorland would be to load it to Calexico, transfer it at that point to another freight car, then move it by local freight train to Westmorland. This would cause at least one day's delay in transferring. Under the rail-truck coordination, the freight is moved direct to Brawley, saving the time involved in trans-
2216 ferring at Calexico, and the cross haul of the freight between Brawley and Calexico.

Q. Has Pacific Motor Trucking Company recently added to its operations in Oregon, so as to provide additional truck routes which will be coordinated with existing or improved rail service?

A. Yes. Under authority of decision of the Interstate Commerce Commission in Docket MC–F–763, Pacific Motor Trucking Company acquired by purchase the capital stock of Pacific Truck Express, and took over the operation of the lines of Pacific Truck Express on July 1, 1940.

Mr. FARRENS. Mr. Reporter, did I offer Exhibit No. 54 in evidence.

The REPORTER. Yes.

By Mr FARRENS:

Q. Have you prepared an exhibit showing the general scope of Pacific Truck Express interstate operations?

A. Yes. This exhibit shows a general route description and the major points served on each route.

Mr. FARRENS. I ask that this exhibit be received in evidence and marked Exhibit No. 55.

Chairman TERRIL. Any objection?

It will be received and marked as Number 55 in this matter.

(Exhibit No. 55, Witness Hennessy, received in evidence.)

By Mr. FARRENS:

Q. What progress has been made toward coordinating the existing rail service with the Pacific Truck Express operations in Oregon?

2217 A. The matter has been under active study for some time. Coordinated service on the routes is now in effect to some extent, and will be changed and improved from time to time as experience and traffic conditions warrant. For the present, no

change is proposed in existing "Overnight" schedules, except that those between Portland, Southern Oregon, and Coos Bay have been shortened. The matter of changing rail schedules between California and Oregon in order to take full and complete advantage of the coordination is being given study.

Q. Have you prepared an exhibit entitled "Example of Rail and Coordinated Rail-Truck Service Offered in Territory Embraced by MC Docket 9115–1, Application of Oregon-Nevada-California Fast Freight, Inc., and MC Dockets 42487–15 et al., Application of Consolidated Freightways, Inc."?

A. I have.

Q. Have you any explanation to offer in connection with this exhibit?

A. Yes; The exhibit only embraces service offered by Southern Pacific Company by through cars, or in connection with coordinated rail-truck service, from some of the California points frequently mentioned in these proceedings. In view of the scope of the applications, it would be impractical to set out in this exhibit all points shown on the map Exhibits Nos. 52 and 53. I have attempted to confine the showing to the more important points involved.

2218 Mr. FARRENS. This exhibit is offered in evidence as Exhibit No. 56.

Chairman TERRIL. Any objection?

Hearing none, it will be received in evidence and marked as Number 56 in this proceeding.

(Exhibit No. 56, Witness Hennessy, received in evidence.)

By Mr. FARRENS:

Q. And have you prepared an exhibit showing similar information on traffic from Portland, Oregon to various Oregon and California destinations?

A. I have.

Mr. FARRENS. May this exhibit be received and marked Number 57?

Chairman TERRIL. If there is no objection, it will be received and marked with that number.

(Exhibit No. 57, Witness Hennessy, received in evidence.)

By Mr. FARRENS:

Q. Have you prepared an exhibit showing schedules of Pacific Truck Express in Oregon on which interstate traffic is transported?

A. I have. This exhibit shows the truck schedules of Pacific Truck Express, operated from points in Oregon, in coordinated rail-truck service.

Traffic is handled by rail line into the various truck terminal points, and thence to ultimate destination by truck. These schedules became effective September 1, 1940, and the matter of
2219 further improvements in the truck and rail schedules so as to furnish a well-rounded out service is under study. Due to the magnitude of Pacific Truck Express operations, it is not possible to effect complete coordination immediately, but it necessarily requires the benefit of time and experience so we can see where additional changes will result in better service to the public.

Mr. FARRENS. May the exhibit which the witness last referred to be received in evidence and marked Exhibit No. 58?

Chairman TERRIL. Hearing no objection, it will be received and marked with that number.

(Exhibit 58, Witness Hennessy, received in evidence.)

By Mr. FARRENS:

Q. What service is rendered by the Northwestern Pacific and its connection to the territory in the vicinity of Marshfield?

A. Northwestern Pacific operates an "Overnight" service between San Francisco Bay area and Eureka, and has joint rates with Butler Freight Line to Crescent City. The latter line connects at Crescent City with the Central Transfer Company, and a second day service, in both directions, is provided.

Q. Do Southern Pacific and Northwestern Pacific maintain pick-up and delivery service at points on their lines?

A. Yes.

Q. What facilities do these lines offer in the San Francisco Bay Area for the receipt or delivery of freight?

A. The main freight station is located at 4th and Berry
2219-A Streets and substations at 16th and Harrison Streets, Front and Vallejo Streets, and Drumm Street and the Embarcadero, in San Francisco. In Oakland, the main freight station is located at 5th and Kirkham Streets, and throughout the East Bay area, substations are locaed in Alameda, Berkeley, East Oakland, Emeryville, Fruitvale, Melrose, Pacsteel, Paraffin, and Richmond.

2220 Traffic received at these substations, both in San Francisco and in Oakland, either through pick-up and delivery service or being brought to the substations by the shipper is moved to the main freight station by vans throughout the day.

Q. Have you prepared an exhibit showing the agency stations maintained by Southern Pacific Company, Northwestern Pacific Railroad Company and Western Pacific Railroad Company between South San Francisco, California, and Portland, Oregon?

A. I have. An exhibit entitled, "Freight Agency Stations maintained by Southern Pacific Railroad Company and Western

Pacific Railroad Company between South San Francisco, California, and Portland, Oregon. The exhibit lists 181 agencies of these lines in California and 82 agencies of the Southern Pacific in Oregon.

No agencies have been shown for the Great Northern Railway, the Oregon-Electric Railway in Oregon or for the Great Northern Railway in California, although those lines do maintain agency stations in the states mentioned.

Q. Nor are there any agency stations listed for the S. P. & S. Railway which also maintains railways in Oregon?

A. That is correct; nor the Union Pacific.

Mr. FARRENS. The exhibit last referred to by the witness is offered in evidence as Exhibit 59.

2221 Chairman TERRIL. It will be received in evidence and marked with that number.

(Exhibit No. 59, Witness Hennessy, received in evidence.)

The WITNESS. I would like to state that the Southern Pacific agencies, both in California and Oregon, which are located on the routes traversed by Pacific Truck Express are also agencies for Pacific Truck Express.

By Mr. FARRENS:

Q. Does Southern Pacific Company make through merchandise cars to points off its own lines?

A. Yes; it does. Through merchandise cars are made from San Francisco Bay to Seattle and Tacoma, providing the same service as is given Portland.

Q. Is l. c. l. refrigerator car service provided to this territory?

A. Yes. Oakland provides a daily l. c. l. refrigerator to Portland. San Francisco has cars for Seattle and Portland, Mondays and Fridays. On those days, perishables from Oakland destined to Seattle is moved by van across San Francisco Bay to be included in the regular cars.

Likewise, on the days when San Francisco does not make a car for Portland, perishable originating in that area is vanned to Oakland for inclusion in their daily car.

Q. Are you familiar with the service rendered on this traffic by the lines north and east of Portland?

A. In a general way; yes. Traffic destined to such points

2222 as Spokane and Wenatchee receives service one day longer than the service given to Portland and Seattle. That is, from San Francisco to Portland and Seattle, third-morning delivery is now provided. This would mean fourth-morning delivery to Wenatchee and Spokane. Traffic between Bend and Portland is given overnight service.

Q. Did you hear the testimony of Mr. Withycombe of Bend, given at Portland in the Consolidated case?

A. I did.

Mr. SCHAFER. Before we go further, may I have an explanation of the last answer?

You say traffic between Portland and Bend is given overnight service from where?

The WITNESS. From Portland to Bend or from Bend to Portland.

Mr. SCHAFER. Thank you.

Mr. FARRENS. Will you read the last question?

(The question referred to was read by the Reporter.)

The WITNESS. I did.

By Mr. FARRENS:

Q. Have you anything to say regarding that testimony?

A. Yes. Mr. Withycombe stated the Great Northern Railway had no regular l. c. l. freight service from Bend; that they hold shipments tendered to them until they get a carload. Mr. Withycombe apparently was misinformed, as the Great
2223 Northern operate a daily except Sunday service on this line and all freight, whether carload or less than carload, is moved on these trains when it is offered.

Q. Did you hear the testimony of Mr. R. B. Peterson of the Columbia Okanogan Nursery at Wenatchee, given in the Consolidated case, about a shipment he had from Merced, California, on February 24, 1940, which he said didn't arrive at Wenatchee until March 13, 1940?

A. I did. This shipment was received by Southern Pacific Company at Merced on February 24, as indicated by Mr. Peterson, and was delayed on our line. The freight was tendered us on a Saturday, moved to Oakland and was transferred into an insulated refrigerator car and placed in manifest train for Portland. Car arrived at Gerber, February 27, at which point it was turned back to Roseville, thence routed through Reno and Alturas to Klamath Falls, due to high water, storms, and slides blocking the line between Gerber and Black Butte in numerous places, as a result of severe flood conditions encountered throughout northern California in late February and early March 1940. Both highways and rail lines were severely damaged by these storm conditions. However, the shipment arrived Wenatchee via the Great Northern on March 8, but was not picked up by the nursery until March 13, or 5 days after it was available to them at Wenatchee, in the view of which I cannot see how Mr. Peterson was hurt by any delay of our line.

2224 Q. Did you hear the testimony of Mr. R. M. Johns of Lakeview, Oregon, to the effect that from 3 to 6 days were required on rail carload shipments, and from 3 to 5 days were required on rail l. c. l. shipments from San Francisco Bay Area to Lakeview, Oregon? Also, the testimony of Mr. R. S. Adams that from 4 to 7 days were required on rail l. c. l. from San Francisco Bay Area to Lakeview, Oregon?

A. Yes, I did.

Q. First, will you explain the Southern Pacific carload and less-than-carload service from San Francisco Bay points and Sacramento to Lakeview?

A. Less than carload traffic is handled in passenger trains to Klamath Falls and freight trains to Alturas, providing late second-afternoon arrival at Lakeview. Due to late afternoon arrival, freight as a result is delivered the following morning. Carload traffic is handled in freight trains either via Reno or Klamath Falls, and Alturas, and is one day longer en route.

Q. What did you do with respect to the testimony given by Mr. Johns?

A. I checked all shipments made to Mr. Johns or to the Lakeview Creamery for one year, to see where he received sixth-day service on carload freight or fifty-day service on less-than-carload freight.

Q. Did you incorporate the results of your investigation
2225 into exhibit form?

A. I did. The first exhibit covers carload traffic and the second relates to less-than-carload traffic.

Mr. FARRENS. I offer in evidence these two exhibits in the order mentioned by the witness as Exhibits 60 and 61.

Chairman TERRIL. The exhibit referring to carload traffic will be received in evidence and marked as Exhibit 60; that referring to less-than-carload traffic will be received in evidence and marked as Exhibit No. 61.

(Exhibits Nos. 60 and 61, respectively, Witness Hennessy, received in evidence.)

By Mr. FARRENS:

Q. Please explain these exhibits, Mr. Hennessy.

A. All of the shipments on the carload exhibit made the scheduled arrival, except the second car, SLSF 162389 was delayed one day. The third car, PE 2821, was likewise delayed one day, but delivery was not taken by Mr. Johns until three days after it arrived at Lakeview. This undoubtedly was due to intervening Sunday and holiday, but it is the only car in which six days were involved. The less-than-carload exhibit is self-explanatory, all shipments but two having made schedules and the two that failed

to make schedules were delayed because of a Teamster's Union strike in the San Francisco Bay Area, as a result of which we were unable to load steel wheel cars for movement in passenger trains from Oakland. Mr. John's trouble so far as South-
2226 ern Pacific service is concerned, seems to be that his orders are placed so the goods reach Lakeview on or are en route over a week-end or a holiday.

Q. What did you do with respect to the testimony of Mr. Adams?

A. I checked on the l. c. l. shipments, both from Portland and from the San Francisco Bay-Sacramento Area, to Adams & Reynolds at Lakeview, from September 1939 to August 1940 to see whether Mr. Adams' firm received seventh-day service on less-than-carload freight.

Q. Did you incorporate the results of your investigation into exhibit form?

A. I did.

Q. What does the first exhibit cover?

A. The first exhibit covers traffic from the Sacramento-San Francisco Bay Area and the second covers traffic from Portland.

Mr. FARRENS. I offer the exhibit covering traffic from the Sacramento-San Francisco Bay area as Exhibit No. 62, and the exhibit covering traffic from Portland as Exhibit No. 63.

Mr. SCHAFER. No objection.

Chairman TERRIL. They may be received and marked with those numbers.

(Exhibits Nos. 62 and 63, respectively, Witness Hennessy, received in evidence.)

By Mr. FARRENS:

Q. Will you please explain Exhibits 62 and 63?

A. All of the shipments shown on Exhibits 62 and 63
2227 made the scheduled arrival at Lakeview on the second day with the exception of the shipments that were affected by the Teamsters' strike in the Bay area, to which I have previously alluded.

Q. Did you hear the testimony of Mr. Leland James in which he stated reasons why it is not possible to effect a successful interchange with his connecting carrier?

A. I did.

2228 Q. And did you analyze these reasons to see how similar problems have been met by Southern Pacific Company in interchanging freight, both with connecting rail carriers and with the Pacific Motor Truck Company?

A. I did.

Q. Now, with relation to Mr. James' 14 points, please state what you found on the first item, that is, delays encountered through necessity of rebilling shipments at interchange points?

A. Where shipments are moving on through joint rates, we find no reasons for rebilling shipments at interchange points. We have successfully interchanged both carload and less than carload freight with other railroads for years without resorting to that practice.

We have also handled less than carload freight between various points on our own lines involving interdivision movements, that is, over one or more divisions. And our merchandise at the present time is all billed by teletype between division points, eliminating the necessity of handling any bills en route by employees.

Q. How about Mr. James' contention relating to delay alleged to be due to the necessity of rating bills at the interchange points?

A. We have never found it necessary or even desirable to set up revising bureaus at interchange points. Some years ago we established at Los Angeles, Oakland, Sacramento, and San
2229 Francisco, station revising bureaus under the jurisdiction of the Auditor of Freight Accounts. It is the function of these bureaus to apply all rates on outbound shipments and verify rates on inbound shipments from and to these large stations at which the bureaus are located, and, in addition thereto, to check all rates applied by stations in the immediate vicinity. If any change of rate is necessary, this is made by the destination agent, and he calls upon agent at point of origin for additional prepay if necessary.

Q. Now, as to Mr. James' point number 3, namely, alleged difficulties experienced in tracing astray shipments, what have you to say on this?

A. Of course, once a shipment has gone astray, the damage to the customer has been accomplished, and this is so whether it is moving in the through service of one carrier, or in a joint service. When it comes to tracing an astray shipment, difficulties can be avoided by agreement as to procedure. Record of transfer should be available at interchange point, and destination agent should be able to secure quickly, information as to which line mishandled the shipment. In fact, with an interchange point transfer record to call upon it should be easier to locate an astray shipment than it would on a through operation, as reference to transfer record could localize the mishandling, whereas on a through operation the entire run would have to be checked.

2230 Q. Do you mean by that that the transfer record would enable truck lines such as Oregon-Nevada-California Fast Freight and Consolidated Freightways, Inc., interchanging at

Medford, to localize the mishandling immediately by checking the transfer record?

A. That is correct. If the shipment should not show up, say, at Portland, rather than check the entire run, the check would be made at Medford. And if it had been delivered to Consolidated at Medford, then they would only have to look in the area, Medford to Portland.

Q. Mr. James' Item Number 4 relating to the handling of c. o. d. remittances, what have you to say on that subject?

A. In the handling of c. o. d. remittances we have found the practice of having the destination carrier collect and remit the amount due the shipper direct from the agent by means of a draft, or have the agent report the transaction to the accounting officer in charge, who will arrange for direct remittance to the shipper, to have been entirely satisfactory.

Q. Mr. James' Item Number 5 relates to delays involved in settlements of claims.

What have you to say to that?

A. This should not present any insurmountable difficulty. Transfer record should reveal visual condition of shipment when it is interchanged, so that responsibility may be placed, and con-
cealed damage discovered at destination can be prorated on
2231 basis of mileage moved over each line in accordance with
mutual understanding. Where a claim is legitimate it is our practice to honor it, and then handle with our connecting lines the matter of proration of responsibility.

Q. The sixth point covered by Mr. James relates to errors made in acceptance of shipments by the originating line, due to lack of familiarity with points served by the connecting line. What has been Southern Pacific's experience in such matters?

A. This trouble can be avoided by publication and distribution of a merchandise schedule showing a list of all points served. This should not present any unreasonable difficulty when it is considered that the points served by different rail carriers throughout the United States, Dominion of Canada, and the Republic of Mexico are all set out in one publication, that is, the Official Guide.

Q. Mr. James' Point Number 7 related to the inability of connecting carriers to agree quickly on the establishment of new rates.

Have you anything to say as to this?

A. This point appears to be solely a question of personnel and willingness to agree. Even in a single organization there are bound to be differences of opinion with respect to new rates, and

rail line experience has been no different, in this respect, than truck line.

Q. The eighth point raised by Mr. James has to do with
2232 the inability of the management to secure cooperation from employees; that employees of one line are suspicious of operations of connecting lines, resulting in inferior through service. What has been the Southern Pacific's experience along such lines?

A. To a certain extent the statement is correct, especially when the lines involved are competing for traffic. However, this complaint should disappear, or practically so, in the case of connecting carriers feeding traffic to each other, and we have found that administration, instruction, and supervision of employees leads to that result.

Q. Mr. James' Items 9 and 10 relate to the interchange of equipment.

What has Southern Pacific Company's experience been on that subject?

Mr. BEROL. Just a minute. If the question is directed to the Southern Pacific Company's experience with truck equipment, I will have no objection. If the question is directed to the Southern Pacific Company's experience with rail, I will object on the ground that it is incompetent, irrelevant, and immaterial.

Obviously we cannot compare the transfer or the interchange of truck equipment with the transfer or interchange of rail equipment, unless it is established that all conditions pertaining to the two are alike.

2233 Mr. FARRENS. Well, that objection might be raised on the weight of the testimony, but it certainly does not run to its relevancy because it is competent here to compare what one type of transportation has managed to do to solve a specific difficulty if it will cast any light on what it is possible for the other transportation agency to do.

The question is whether or not it does cast light; is a matter of the weight of the evidence and not of relevance.

Chairman TERRIL. The objection will be overruled. The witness may answer. The testimony will be received for what it is worth in this proceeding.

The WITNESS. Railroad equipment is now and has been for many years sufficiently standardized throughout the United States so that it can be operated on practically any line in United States, Dominion of Canada, and the Republic of Mexico, and is so operated.

By Mr. FARRENS:

Q. By that answer, are you suggesting that one transportation——

Mr. SCHAFER. I object to the leading nature of the question.

Mr. FARRENS. I think probably the objection is sound, and I will withdraw the question.

By Mr. FARRENS:

Q. I ask you if your answer does suggest any follow-up as to what might be done in the truck case.

A. The suggestion is that historically there were situa-
2234 tions where rail lines were unable to interchange equipment, which provided for expensive transfer and delays; that through cooperative effort they have overcome that, by standardizing their equipment and other modes of transportation are undoubtedly liable to do the same thing.

Q. Mr. James' Point Number 11 related to the alleged inability to give consignees definite information as to the time of arrival of a shipment moving in joint service.

Has Southern Pacific Company been able to meet and obviate that difficulty?

A. Yes; it has. One carrier will experience just as much difficulty in maintaining a published schedule as will another, standards of equipment being equal. Cooperate handling between connecting lines dispatchers, and officials and employees in providing information as to movement of freight, and regular exchange of information as to the movements of equipment and trains has allowed the rail carriers to furnish reliable information to consignees or shippers as to present location of their shipments and anticipated arrival time at destination.

Q. Has Southern Pacific Company had the experience of having its employees at points of interchange hate the employees of the other company?

A. I can't say we hate the employees of any company, even the truck companies.

2235 Q. Now, Mr. James' Point Number 12 related to the alleged misrouting of shipments at interchange points?

What has been Southern Pacific Company's experience with respect to such a difficulty?

A. This is solely a question of proper supervision and training of employees, unless it is contended that misrouting is deliberate. Any carrier will occasionally have misrouted shipments, even on its own line, but if employees are properly supervised these misroutings can be practically eliminated.

Q. Mr. James' Point Number 13 related to the routing of equipment.

What have you to say with respect to that question?

A. The flow of traffic is not under the control of the carrier. It has been our experience in handling both rail and truck traffic

that it is practically impossible to have a continued balanced movement of traffic in each direction, and unless a carrier determines to minimize deadhead movements of equipment by holding shipments and moving them at the carrier's convenience, there is bound to be some deadheading necessary. Of course, where traffic is balanced, or nearly so, in each direction, then the amount of deadhead mileage is bound to be a great deal less, assuming efficient dispatching of equipment, than must obtain where unbalanced conditions exist. As illustrative of this, take the territory between San Francisco and Portland, where the pre-
2236 ponderance of interstate business flows northward: If the carrier on the south end has a preponderating movement of interstate business northward, it must necessarily deadhead equipment southward in order to provide for the preponderating movement; if, however, its connecting carrier handles a large quantity of local business southward, this would tend to balance power and equipment so far as that carrier is concerned, leaving the carrier on the south end with light tonnage in only one direction, while the carrier on the north end due to a substantial movement of local business in one direction, plus a substantial movement of through business in the other direction, with proper supervision, should be able to obtain a high percentage of efficiency in the handling of its equipment.

Q. Now, Mr. Hennessy, right at that point, is the situation which you have just described in your last comment substantially that which has been shown in the exhibits of these two applicants, which have been introduced, showing their tonnage movements?

A. Yes, sir; as I understand the exhibits.

Q. Now, using your same example, what would be the probable result if these carriers discontinued the interchange of freight at an intermediate point, and instead both operate their equipment through from San Francisco to Portland?

Mr. BEROL. Just a minute. May I have that question read?

(The question referred to was read by the Reporter.)

2237 Mr. BEROL. I object to it on the ground that it is indefinite.

Maybe the witness does, and, of course, the witness is the only important one to understand the question.

It is a broadsided question, and I do not know what is called for by that question.

Mr. FARRENS. Well, I have no difficulty in determining what the question meant. I do not know whether the Board has or anybody else other than counsel who objects.

Mr. BEROL. If that is the case, I will object to the question on the ground that it calls for the conclusion and opinion of the

witness, and on the further ground that no proper foundation has been laid.

Now, the question invites the witness to expound at length on what may happen and what may be in one or a hundred different respects as to these two carriers.

Now, the mere fact that the witness is an employee of the Bureau of Research of the Southern Pacific Company may very well qualify him to have an opinion and to testify as to what the results may be under any other given set of circumstances involving the rail transportation. But certainly there has been nothing here to indicate that this witness is in any way qualified as to what might happen to two connecting truck lines under any set of circumstances.

Mr. FARRENS. It unquestionably calls for the opinion of
2238 the witness. The witness has shown by his testimony that he is employed in the capacity of an expert by Southern Pacific Company for the making of traffic studies, such as are involved here. His experience has not been limited solely to rail traffic, but as indicated by some of the exhibits which have been put in, has extended for a considerable period of time into the trucking business.

Even though passing that question, if it had been limited to the railroad business, the question of the deadhead of equipment were necessary because of an unbalanced flow of traffic in opposite directions, it is not peculiar to the trucking business or peculiar to the rail business, but is common wherever that unbalanced condition of traffic exists, and it does not make any difference whether it was rail cars or trucks that are involved. If there is an unbalanced flow of traffic, the basic situation is identical.

Chairman TERRIL. Does the Board understand that you are offering Mr. Hennessy in this regard as an expert in transportation matters?

Mr. FARRENS. That is correct, both with respect to rail and truck because both matters are under his jurisdiction.

Chairman TERRIL. Then I would suggest that, Mr. Berol, if you care to examine as to his qualifications, that the questions might be in order.

Mr. BEROL. You mean at this time?
2239 Chairman TERRIL. If you care to.
Mr. BEROL. Yes; I would be delighted to.

Voir dire examination by Mr. BEROL:

Q. Mr. Hennessy, how long have you been employed by the Bureau of Research in the Southern Pacific Company?

A. Approximately the past 12 years.

Q. And the Bureau of Research, particularly, is what type of department in the company's affairs?

A. It is an organization set up to make studies of operating, economic matters relating to transportation.

Q. In that capacity, what particular line of work have you followed in the Bureau?

A. For the past five years I have been devoting most of my time to studies relating to other transportation agencies as they may affect rail operations. By that I mean operations of competing truck lines, competing rail lines, operations of our own wholly owned truck lines.

Q. Now, with respect to the operations of your wholly owned truck lines, do you have any situation where any wholly owned truck line of the Southern Pacific Company interchanges traffic under conditions similar to that interchanged by the two applicants here at Medford?

A. Not as respects the volume of traffic or the number of units moved in any one way. Most of the traffic interchanged between Pacific Motor Trucking Company and its connections is
1140 primarily with the rail lines.

Q. Have you made any study of the operations of the two carriers involved here?

A. No; I have not, other than for use in these proceedings.

Mr. BEROL. I will submit the objection.

Direct examination (resumed) by Mr. FARRENS:

Q. Mr. Hennessy, without waiving the question, you sat through almost the entirety of these hearings; did you not?

A. I have; yes, sir.

Q. You have examined nearly all, or all, of the exhibits, offered by the two applicants?

A. Nearly all. There are some that I haven't seen.

Q. Have you made a study of these exhibits as they came in?

A. Yes, sir.

Q. And based upon your years of experience, I will ask you whether or not as a traffic expert it is your opinion that there will be any difference with respect to the difficulties presented by unbalanced traffic arising out of any difference in the type of vehicles used to transport the traffic.

A. I cannot see that the type of vehicle used in transporting the traffic would make any difference in the application of a general principle as to the fact that power and equipment must move light if there is an unbalanced condition of traffic.

2241 So far as truck traffic contrasted with rail is concerned, the traffic moves in smaller units which may or may not affect the number of pieces of equipment, trailers or power units,

that have to be moved deadhead. But as to the general principle where you have more traffic moving in one direction than you do in the other, you have to deadhead equipment, and it doesn't seem to me to make any difference if it is truck traffic, rail traffic, or air traffic.

Q. Mr. Hennessy, would the question to which this objection was made require you to go any deeper than the mere application of a general principle?

A. That is all; the mere application of a general principle.

Mr. FARRENS: I ask for a ruling from the Board.

Chairman TERRIL. The Board is rather of the opinion that the question has been answered by the testimony of the witness.

Mr. FARRENS. No; it has not.

Chairman TERRIL. Can you find the original question, Mr. Reporter?

Mr. FARRENS. I think it is so far back I had better repeat it.

I asked the witness to use the same example and state what would be the result should these carriers, the applicants in this case, discontinue the interchange of freight at the intermediate points, and, instead, both operate their equipment through between San Francisco and Portland.

2242 Chairman TERRIL. That is, in his opinion, what would occur?

Mr. FARRENS. That is correct.

Chairman TERRIL. The objection will be overruled. The witness may testify. You may have an exception.

Mr. BEROL. May I have an exception, please?

Chairman TERRIL. It will be noted.

The WITNESS. In my opinion, under such circumstances, the amount of deadheading of power and equipment would necessarily increase, for the carrier handling the through business preponderating northward would have to increase his present deadhead or light mileage to the extent that it increased its mileage in the direction in which the traffic preponderates; while the carrier that formerly could control its deadhead and light mileage, due to having its equipment available for handling local traffic, would still have the local traffic to handle, but would not be able to utilize its power and equipment to handle the through traffic in the opposite direction, as such traffic would no longer be available to it at its interchange point.

By Mr. FARRENS:

Q. Mr. James' fifteenth point relates to damage due to the handling at junction points.

What comment have you to make upon that testimony?

A. My answer to Point 12, misrouting of shipments, is equally applicable here. In addition, we have found in all of our
2243 coordinated rail-truck operations, where there is a rehandling at the interchange point, that proper attention to the matter insures little damage through rehandling.

Mr. FARRENS. You may cross-examine.

Cross-examination by Mr. BEROL:

Q. Mr. Hennessy, will you refer to your Exhibit No. 55, please?

A. Yes, sir.

Q. Take for example the last item shown, South San Francisco-State Line, showing service between San Francisco Bay points and points such as Willows, Red Bluff, Redding, and so forth.

Now, is not a part of that territory also served by the Pacific Motor Trucking Company under operative authority from this Commission?

A. Yes, sir.

Q. Are there two separate services being operated in the territory?

A. Well, the——

Q. I have only in mind the territory between Redding and Yreka.

A. I understand the territory you have in mind. The present service of Pacific Truck Express is limited in its operations, as has been outlined by Mr. Farrens here.

Now, the Pacific Motor Trucking Company is operating trucks in that territory in accordance with the certificates issued by this Commission.

2244 Q. Well, now, what I am asking, insofar as any traffic to be moved between those points, are there trucks of both the Pacific Motor Trucking Company and the Pacific Truck Express operating over the same route?

A. Well, I would have to refer to the time schedules to ascertain that particular point, which I will be glad to do.

Q. You cannot tell me that offhand?

A. Not offhand; no, sir.

Q. Now, do I understand the purpose of Exhibit No. 55 to show the various segments which constitute truck routes of the Pacific Truck Express?

A. Yes, sir.

Q. Now, you do not show on Exhibit No. 55 any route that involves service between any point in Oregon on the one hand, and any point in California, on the other hand.

Do I understand the reason for that is, to be consistent with a statement made by Mr. Farrens, as to what the service will be?

A. That is correct. The service between a point in Oregon and a point in California can be and is being rendered by the use of the route designated "Portland-State Line," the fifth item, and the last item, "South San Francisco-State Line," but it is not shown as a through operation for the reason that you have advanced.

Q. Now, referring to Exhibit No. 56, please, I notice that
2245 on the service offered out of the Bay area, the train arrives in Portland at 6:30 p. m. of the following evening?

A. Yes, sir.

Q. And it shows an arrival time in Salem, which is intermediate between San Francisco and Portland, at 9:20 P. M.?

A. Yes, sir.

Q. Will you explain why that is so?

A. Yes. This traffic is handled strictly in freight trains, and the through manifest train handling the Portland cars from the Bay area likewise handles the Salem cars. However, Salem cars are cut out of that train in Eugene and then handled from Eugene to Salem via another train.

Q. Now, as to traffic that may originate from San Francisco destined to Salem, I understand that the car will move to Eugene, there being derailed——

A. Not "derailed."

Q. I do not mean "derailed." I mean detached from that train, and then hauled to Salem in another train?

A. Yes, sir. The lading will not be touched in the car. The car will simply be taken out of one train and placed in another.

Q. Now, will you explain to me as to what part Pacific Truck Express plays, if any, in a shipment leaving San Francisco destined to Salem?

A. Well, at the present time the Pacific Truck Ex-
2246 press plays no part in such a shipment. However, it is contemplated that the operations of Pacific Truck Express may eventually be tied in so as to have an operation out of Eugene upon the arrival of that car at 1:00 P. M. to provide a delivery at Salem the same afternoon.

Q. In other words, that is under contemplation, but has not yet been effected?

A. That is correct. I don't mean to tie that down to Salem, but all points in that territory.

Q. Now, referring to Exhibit No. 57, do I understand the purport of that exhibit to be traffic leaving the Bay area today will arrive at Lakeview at 6:00 P. M. tomorrow?

A. No; Mr. Berol. Exhibit 57 relates only to traffic originating in Portland.

Q. At Portland?

A. Or transferring at Portland to us.

Q. Nothing to do with the San Francisco Bay area?

A. That is correct, except as to destination.

Q. Now, what did I understand is the time in transit as to traffic originating at San Francisco and destined to Lakeview?

A. The less-than-carload traffic will arrive Lakeview in the afternoon or evening of the second day after loaded. If loaded on Monday at San Francisco, it arrives at Lakeview around 6:00 P. M.

Q. In other words, involving a third-morning delivery?

2247 A. Generally involving a third-morning delivery; yes.

Q. What about carload traffic?

A. One day longer on carload traffic.

Q. On carload traffic the normal time in transit between Bay points and Lakeview is four days?

A. No. The normal time in transit is three days.

Q. Now, how about the normal time between departure from San Francisco and delivery?

A. That all depends upon the—if the consignee wishes to take delivery the night the car arrives, he is welcome to do so. Generally he will not because it gets in around dark, so it would be fourth morning.

Q. I take it that the purpose of Exhibit No. 61 is to demonstrate that the consignee in Lakeview received the shipment on the fourth day rather than the sixth day?

A. No. No. 61 is the less-than-carload traffic exhibit; shows that the consignee as a rule received his shipments third morning; that they arrived second day as contrasted with the fifth and sixth day that he claimed. It is the carload traffic which arrives third day and generally is available for fourth morning. That is Exhibit 60.

Q. Now, let me ask you, Mr. Hennessy, with respect to the operations conducted by the Pacific Motor Trucking Company.

Do I understand correctly that they are conducted on a cost-plus basis whenever they handle traffic for the Southern

2248 Pacific Company?

A. Well, I am not familiar with the intimate details of their accounting, but generally I will say that is correct.

Q. Therefore, as far as the Pacific Motor Trucking Company is concerned, they operate and make their expenses without any regard to the volume of traffic or rate under which that traffic was handled or to their own expenses or revenue derived from that particular freight?

Mr. FARRENS. If the Board please, I object to this as improper cross-examination. If counsel wishes to make the witness his own and be bound by his evidence, that is his privilege, of course.

Mr. BEROL. I do not think it is——

Mr. FARRENS. Just a moment, please.

Mr. BEROL. Excuse me. I thought you were finished.

Mr. FARRENS. It is quite obvious that it is irrelevant in this case because Pacific Truck Express is a wholly owned subsidiary, with Pacific——

Mr. BEROL. I think this may be improper cross-examination, except from one standpoint, and I think it is preliminary to some opinions expressed by the witness, but if counsel objects to shortening this in view of the paucity of time, I will call Mr. Hennessy as my witness under Section 2055 of the Civil Code to testify as an adverse witness.

Mr. FARRENS. Then assuming that to be done and the
2249 question to be asked, I object on the ground that the question is irrelevant. As I say, it already appears of record that Pacific Truck Express is a wholly owned subsidiary of Pacific Motor Trucking Company, which in turn is a wholly owned subsidiary of the Southern Pacific Company. Southern Pacific Company as the stockholder of Pacific Truck Express would bear the profits or the losses of Pacific Truck Express in any event, no matter what method of agreement between the two companies might be adopted. That is to say, if Pacific Truck Express operations are resulting in a deficit, the equity represented by Southern Pacific Company stock is being decreased proportionately. If it is operating at a profit, its equity is being increased proportionately, and you are dealing with a question where you are taking money out of or putting money into one pocket or the other without any reference as to whether it represents losses or gains.

For that reason, I contend it is wholly irrelevant as to what the arrangement between the two companies may be.

Mr. SCHAFER. If I may be heard upon that point, the witness has sought to give his expert opinion on how to operate trucks profitably. He is criticizing the opinion given by a man who has built a truck system over ten years and had to operate it and make a profit or go out of business, and I think it is perfectly appropriate to show that the truck operations with which this witness purports
to speak for, and the only experience which he has, has no
2250 necessity of making a profit. And it certainly affects his qualifications in that respect.

Mr. FARRENS. If that is the purpose for which the question was asked, I am perfectly agreeable to stipulating that the only necessity which Pacific Truck Express has to make a profit is that of making money for the benefit of its stockholder, the Southern Pacific Company.

Mr. BEROL. If counsel will likewise stipulate that the Pacific Motor Trucking Company is not operating at a profit or not paying its full share of expenses, it will save further cross-examination.

Mr. FARRENS. I do not know what the fact is; so I could not stipulate to that.

Mr. BEROL. I will submit the objection. I think the purpose of the question is clear.

Chairman TERRIL. The Board is of the opinion that if you had asked that question on cross-examination, that it might probably have been admissible. But on direct examination we are somewhat doubtful as to its admissibility.

Mr. BEROL. I will now dispense with the witness as my witness and recall him for cross-examination and ask him the same question.

Mr. FARRENS. I might add that the question does not relate to any subject gone into on cross-examination and is an improper question.

Chairman TERRIL. In view of the latitude that has been
2251 allowed in this proceeding, I think the objection will be overruled and the testimony will be received for what it is worth.

By Mr. BEROL:

Q. Do you recall the question?

A. Yes; Mr. Berol. I would like to ask for my own purpose if you are talking about Pacific Motor Trucking Company? Mr. Farrens was talking about Pacific Truck Express.

Q. That question was directed to Pacific Motor Trucking Company.

A. The answer to that question is "Yes." Now, may I explain it?

Q. Certainly.

A. In all the operations of Pacific Motor Trucking Company, that is, proposed operation, before any decision is made as to whether such an operation will be attempted, the net effect of that operation upon the revenues of Southern Pacific Company is first considered.

Q. Well, are you able to tell me as to whether, considering the revenue earned by traffic handled by Pacific Motor Trucking Company, and taking into consideration all items of expense in connection with that operation, are you able to tell me, and do you know, as to whether such trucking operations are being conducted at a profit or at a loss?

Mr. FARRENS. Just a moment.

Mr. BEROL. I just asked him if he knows.

Mr. FARRENS. I object to it as irrelevant. I am not sure
2252 I understand the question.

As the witness has explained now, before any operation is conducted or has been commenced, its continuance depends upon

whether or not the results of that operation will be beneficial jointly to Pacific Truck Express and Southern Pacific Company.

By that I mean, for example, if you have an operation where you can save $100,000 a year as compared to the service presently being given by the Southern Pacific Company, but it might result in a loss of $10,000 a year under Pacific Truck Express and yet it is a service which Southern Pacific Company is compelled to give to the public in one way or another, that such a service I assume might be rendered by Pacific Truck Express saving $90,000 net to the joint companies, notwithstanding it might result in a loss to the truck operation.

Mr. BEROL. The question was not directed to the Pacific Truck Express, but was directed to the operations of Pacific Motor Trucking Company.

Mr. FARRENS. Well, the Board may consider the Pacific Motor Trucking Company substituted for Pacific Truck Express in the explanation which I have just made of my objection.

It does not make much difference which trucking company it is. They are both subsidiaries.

Mr. BEROL. I do not want to consume a lot of time in
2253 argument. The only question asked of this witness was whether he knows or whether he does not know.

Chairman TERRILL. The objection will be overruled. The witness may answer.

The WITNESS. I do not know as to the consolidated operations of Pacific Motor Trucking Company.

Mr. BEROL. If the witness does not know, I shall not pursue it any further. That is all.

By Mr. SCHAFER:

Q. Mr. Hennessy, I notice on your Exhibit 58 you show a leaving time from Portland, 7:00 P. M., and arrival time at Medford, 350 miles away, at 7:00 A. M.—315 miles away, which is an average speed of slightly in excess of 26 miles per hour.

Do you have any opinions to offer on the practicality of such an operation?

A. I do not.

Q. You do not know anything about the schedule making of the Pacific Truck Express?

A. Well, that is another question. Yes; I know something about the schedule making.

Q. They make it a practice to operate their vehicles at safe speeds?

A. Yes, sir.

Q. That vehicle goes over Mount Sexton and through the cities of Roseburg, Grants Pass, and the other congestion points
2254 mentioned by Mr. Pierce?

A. I didn't hear all of Mr. Pierce's testimony. I do not know what mountains the road may traverse. It does go through Roseburg and Grants Pass and the cities named in the Portland-State Line schedule.

Q. Mount Sexton is between Roseburg and Grants Pass, I believe.

A. Well, I will take your word for it.

Q. Now, in connection with your suggestion on how all of the difficulties of interchanges may be eliminated, dealing with the question of rebilling, when you turn freight over to a connecting line, such as the Butler Freight Line, I believe you testified you do turn freight over to them?

A. Yes, sir.

Q. In such instances, how many copies of the Freight Bills do you give Butler?

A. Well, the shipment is billed through from San Francisco, assuming it is destined to Crescent City. Now, I do not know the exact number of copies that Mr. Butler may get, but there is no necessity of rebilling that shipment at Eureka.

Q. Assuming that you give Mr. Butler the shipment with one freight bill which he turns over to the consignee upon delivery or——

Mr. FARRENS. That question is objected to because it is based upon an assumption which has not been shown to date to have a foundation of facts.

2255 Mr. SCHAFER. I think that is a fair question. We do not know how many. If he assumes he gives Butler one which he surrenders to the customer, Butler must keep one which he gives to the customer and remanifest.

Chairman TERRIL. You may proceed with the question and ask the question.

By Mr. SCHAFER:

Q. I will ask you, Mr. Hennessy, assuming that you turn over the shipment to Mr. Butler with only one freight bill which he must surrender to the consignee, in that case would it not be necessary for him in the conduct of his business, and for the keeping of his own records, to manifest that shipment and to rebill it?

A. Well, going on that assumption, why, the question answers itself.

Q. The answer is "Yes?"

A. Yes.

Q. Now, you make it a point not to revise any rates at intermediate points, I believe you testified?

A. That is correct; yes, sir.

Q. Assuming a shipment is destined for a small point, a small agency where there is not an adequately trained tariff man able to

revise a shipment moving through over two or three lines, would you not agree that it would be more practical to revise it before it gets to him for delivery to the consignee, to check for revisions.

2256 A. Assuming what you have stated to be the fact, yes. But the railroad—every station agent is able to revise freight bills.

Q. The railroads have been in business a great many years; have they not?

A. So far.

Q. And those station agents have the benefit of years of training?

A. Yes, sir.

Q. Most of them are telegraph operators, also?

A. That is correct; most of them are; yes, sir.

Q. They have access to free use of the railroad telegraph for such purposes; do they not?

A. They have access to the instruments; yes, sir.

Q. And they have free access to the telegraph instruments for tariff interpretations; do they not?

A. For any railroad business.

Q. That is right. And any railroad business would include astray tracing and claim investigations?

A. Yes, sir.

Q. Routing guidance?

A. Yes, sir.

Mr. SCHAFER. That is all the questions I have.

Mr. FARRENS. Any further cross-examination?

2257 Redirect examination by Mr. FARRENS:

Q. Turn to your Exhibit No. 55, Mr. Hennessy. Does the fact that this exhibit shows the service between Portland and the State line, being the 5th item, and the service between the California State line and South San Francisco, being the last item, is that intended to indicate that there is no through service by Pacific Truck Express between Portland and San Francisco Bay area?

A. There is not; no, sir. It doesn't intend to indicate that at all.

Q. Is it a fact that there is presently through service between Portland and the San Francisco Bay area?

Mr. SCHAFER. Objected to on the ground that we are determining public convenience and necessity, and counsel has already indicated that as soon as they can determine how to do it they are going to cease competing with themselves, and wherein two services now exist, one coordinated service will exist in the future. It

may be next month. It may be before the briefs are written in this case.

It is improper for him now to put into evidence that Pacific Truck Express is an additional through service to the Southern Pacific, or will be for any period of time.

Mr. FARRENS. If the Board please, the question was asked only as a matter of making clear Exhibit 55, some doubt having been raised in my mind on Mr. Berol's examination as to whether that point was clear.

2258 Chairman TERRIL. I think the record speaks for itself in regard to the service the Pacific Truck Express expects to render in the future, and I think we will allow the question.

The WITNESS. I have lost it. I am sorry.

Chairman TERRIL. Can you find it?

(The question referred to was read by the reporter.)

The WITNESS. That is a fact.

By Mr. FARRENS:

Q. Mr. Schafer asked you a question which involved the assumption that the shipment would be turned over by Northwestern Pacific Railroad to the Butler Line at Eureka for delivery to Crescent City, with only one freight bill being delivered to Mr. Butler.

Do you know of any necessity which would bring about the delivery of a freight shipment to Mr. Butler with only one freight bill, one copy of the freight bill?

A. I do not. The freight bills and the way bills on traffic turned over to Mr. Butler are teletyped from San Francisco to Eureka, and as many copies as desired run off at Eureka.

Mr. SCHAFER. I will have to ask just one more question.

Mr. FARRENS. Would you mind waiting until I finish redirect?

Mr. SCHAFER. You sat down so ponderously I thought you were through.

Mr. FARRENS. I didn't get up.

By Mr. FARRENS:

2259 Q. You were questioned by Mr. Schafer regarding the agent's access to telegraph facilities.

State whether or not the Southern Pacific Company would long tolerate the use by one of its agents of the company's telegraph services to make good his shortcomings in knowledge of facts that he has been trained and educated to know of his own knowledge.

A. No, sir; they would not. We would relieve him of his agency.

Mr. FARRENS. Now, you may cross-examine.

Mr. SCHAFER. The only question I wanted to ask is this:

Re-cross-examination by Mr. SCHAFER:

Q. I ask you whether Butler bills through from points on his line to points on the Southern Pacific, such as El Paso, Texas, and points in Arizona?

A. Mr. Butler bills through from points on his line to points on Southern Pacific or Northwestern Pacific where there are now joint rates existing.

Q. What type of freight bill does Mr. Butler use?

A. Oh, I am sure I don't know, Mr. Schafer.

Q. Does the freight move through to destination on the Southern Pacific Company Lines on Butler's form?

A. Certainly; yes, sir.

Q. How many copies does Southern Pacific require of that?

A. I am not at all familiar with the intimate details of Mr. Butler's operations.

Q. Can you state of your own knowledge whether or not
2260 freight is rebilled by Southern Pacific at the point where Southern Pacific takes possession of it.

A. We don't take possession of it. It comes to us—it comes to us from Butler through the Northwestern Pacific Railroad Company and is not rebilled at Eureka.

Q. Does the consignee get a Butler freight bill?

A. Well, the freight bill presented to the consignee—you are talking about a collect shipment, I presume?

Q. Yes. Let us talk about a collect shipment.

A. May have "Butler's Freight Service" stamped on it.

Q. Whose form will it be?

A. It will be Butler's form.

Q. If it is Butler's form, why does it have to have "Butler's Transportation" stamped on it?

A. "Butler Freight Service" stamped or printed on it.

Q. And that is the freight bill that the consignee in Texas or Arizona would get along with the shipment?

A. I didn't say anything about Texas or Arizona. I just said to such points as Butler Freight Service maintains joint rates with Northwestern Pacific and Southern Pacific.

Q. Where are such points?

A. Well, the only investigation I made in this proceeding was from the San Francisco Bay area. I am not familiar with all the freight rates that are maintained all throughout the United States.

2261 Q. And you do not know the answer to my question?

A. Not as to Texas and Arizona, I do not; no, sir.

Mr. SCHAFER. That is all.

Chairman TERRIL. Is that all, Mr. Schafer?

Mr. SCHAFER. Yes.

Mr. FARRENS. That is all.

Chairman TERRIL. You may be excused, Mr. Hennessy.

(Witness excused.)

Mr. ELLIS. Before asking Mr. Pierce to resume the stand for cross-examination, I have one short witness that I would like to accommodate, if the parties consent to that arrangement.

Chairman TERRIL. Off the record.

(Discussion outside the record.)

Chairman TERRIL. On the record.

2262 Mr. ELLIS. Mr. Buell.

S. D. BUELL was sworn and testified as follows:

Chairman TERRIL. The exhibit that has been distributed will be marked for identification as No. 64.

(Exhibit 64, Witness Buell, marked for identification.

Direct examination by Mr. ELLIS:

Q. The exhibit identified as "64" consists of three pages headed——

Chairman TERRIL (interposing). You have not identified your witness yet, Mr. Ellis.

By Mr. ELLIS:

Q. State your name, please.

A. S. D. Buell.

Q. What is your place of residence?

A. Portland, Oregon.

Q. What is your business or profession?

A. I am a certified public accountant.

Q. What education or training have you had prior to entering upon your work as a certified public accountant?

A. Well, in addition to my high school and college, I have had extension school training in Oregon Institute of Technology.

Q. How long have you been practicing your accounting profession?

A. Since February 1927.

Q. Where has that work been carried on?

2263 A. In Portland and surrounding territory.

Q. With what firm are you associated and in what capacity?

A. Whitcomb, Buell, Stratford & Company.

Q. What is the nature of the business carried on by that company, and particularly by yourself?

A. General public accounting practice, audit investigations, income tax investigations, system work and general practice carried on by certified public accountants.

Q. Does that work include making financial examinations and analyses of various types of companies?

A. Yes; it does.

Q. Are you licensed as a certified public accountant in the State of Oregon?

A. Yes; I am.

Q. Do you hold any membership or office on the Board of Accountancy in the State of Oregon?

A. Yes. I am a member of the Oregon State Board of Accountancy. I am a member of the Oregon State Society of Certified Public Accountants. I am also a member of the American Institute of Accountants.

Q. Have you in your experience been employed by any state or federal agency for the making of audits or financial investigations of any kind?

A. Yes. I presume that——

Mr. SCHAFER (interposing). Can I stipulate Mr.
2264 Buell's qualifications?

Mr. ELLIS. Well, we are practically through with the qualifications. I am quite anxious to have that appear on the record. I thank you for the stipulation, nevertheless.

The WITNESS. I presume you refer to some experience that I had that was quite well known. I examined the books and accounts—made, in other words, an audit of the accounts of the Board of Higher Education involving the normal schools, the State university and the State college and their various activities in the years 1932 and '33.

By Mr. ELLIS:

Q. That was for what state?

A. For the State of Oregon.

Q. You were employed by the State of Oregon for that purpose?

A. I was.

Q. Have you at my request made an analysis of the records and accounts of Consolidated Freightways, Inc.?

A. Yes. I have obtained the various financial data that they have submitted to the Oregon State Public Utilities Commission and, more recently, to the Interstate Commerce Commisssion. And from that I have prepared the exhibits heretofore marked "Exhibit 64."

Q. And that exhibit consists of how many pages?

A. Three pages.

Q. Referring particularly to the first page of Exhibit 64 for identification, will you state from what particular records
2265 shown thereon was obtained?

A. From the report filed by the Consolidated Freightways, Inc., to the Oregon State Public Utilities Commission.

Q. That is, the regular annual report?

A. Their annual report. In fact, it embraces more than one annual report, running from 1935 to 1939, at December 31 of each year.

Q. Will you briefly analyze the results of your investigation and point out any significant fact which you have developed from examination of these records and reports?

A. Yes. I should like before doing so to make you familiar with an expression which is an accounting term but which carries a great deal of significance to any businessman, namely, the term "Net Working Capital."

That particular term embraces the current assets and the current liabilities of a particular statement, the net difference between the two being the net working capital or deficit in the net working capital.

Now, as to this analysis, I would call your attention to the fact that the current assets at December 31, 1939, are recorded as $280,690.62.

Q. That is found on what sheet?

A. That is found on Sheet 1 of the Exhibit, under "Current Assets" under the column "December 31, 1939."

2266 On that same exhibit further down under "Current Liabilities" will be found $494,456.74. The net different between the two figures is shown as the net working capital or deficit, whichever the case may be.

Now, going into the figures that make up the totals of each of the classes of accounts, you will note on the first line "Cash and Working Funds." On December 31, 1939, it showed an overdraft, the red figure of $27,519.91.

A proper presentation of that item would be to include it as a liability and not reduce it as current assets, but the effect, as it is carried in this statement, is immaterial for the purposes of our discussion.

The third item known as "Subscriptions to Capital Stock" may or may not be a proper current asset, depending upon the circumstances of the subscription. It is generally considered unwise to include subscriptions to capital stock as a current asset, unless they are secured in some way.

Item number 4, "Materials and Supplies" is stated on the report to the Public Utilities Commission to include gas, oil, parts, tires, et cetera. The item is not entirely clear, and it would seem possible that it might include, because of the size of the item in comparison with the other items on the statement, tires that

may be in use on road equipment. If that were true, some portion of that $132,000 should be excluded from the current asset classification.

2267 Under the "Liabilities" I call your attention to "Obligations Secured by Property and Equipment Maturing Within One Year."

Consolidated in its regular statements has now shown that item as a current liability. They have classified it under "Equipment Liabilities" along with other amounts which you will note below on the statement are aggregating $169,880.12. So that by reference to their original report one does not find the $164,000 due in one year as a part of their current liabilities, although they must be met within the ensuing year.

Mr. SCHAFER. Will you point out that item for me, please?

The WITNESS. It is carried under "Current Liabilities," the last item among that group.

Mr. SCHAFER. You say it is not included?

The WITNESS. Consolidated's regular report classifies that item along with the obligations that are due after one year in one group of items.

Now, looking at the statement from the standpoint of the company's ability to properly carry on its finances, it would be considered right and proper that there should be as many dollars of current assets as there are of current liabilities, inasmuch as those current liabilities must be met. And in this particular statement we have $213,765.12 of current liabilities in excess of current assets.

2268 By Mr. ELLIS:

Q. As of what date?

A. At December 31, 1939.

Now, I call your attention to page 2 in which the working capital is tabulated for each of the years 1935 to '39, inclusive, at December 31.

In 1935 there was a net deficit in working capital of $65,901.81; in 1936 a deficit of $40,640.71; in 1937 a deficit of $107,520.23; in 1938, the first year in which the long-term liabilities were segregated so that we were able to determine the items due within the ensuing year, $75,605.97; in 1939, $213,766.12.

This does indicate the trend of the financial position of Consolidated Freightways, Inc. The last figures on this schedule indicate the change in working capital during 1939, showing that there was a deficit at the end of the year of $213,766.12; a deficit at the beginning of the year of $75,605.97, showing a net decrease in net working capital of $138,160.15.

On page 3 I have endeavored to explain what comprises the decrease of $138,160.15.

I have shown first in the first group of items the sources to which the—rather, the places in which the funds were invested, and in the second group of items, the sources from which the funds were obtained.

During 1939 funds were applied to additional operating
2269 property of $98,982.37; to nonoperating and intangible property, $12,993.06; to prepayments and other deferred debits, $44,911.55; to the reduction of debt owed to associated companies, $34,030.60; to the reduction of other long term debts, $115 380.42; to the reduction of other liability reserves, $7,384.51, making $343.682.51 of total funds applied.

They obtained these funds from the following sources: Increased capital and surplus, $138,061.49; from the liquidation of receivables due from associated companies, $47,109.13; from the liquidation of other investments and advances, $9,117.24; from increase in deferred credit or liabilities, $11,234.50, making total sources of $205.522.36, representing a net reduction of $138,160.15 in the net working capital.

Q. Over what period of time?

A. Over a period of one year during the year 1939.

Now, the significance of this statement, as I view it, is the ability of the company to continue an expansion program and finance itself. Without a doubt, the liabilities that are current must be met unless the creditors are to carry the company beyond a normal limit of credit.

In addition to that, orders of the Interstate Commerce Commission during 1940 indicate that during 1940 this company has applied for permission to endorse the notes of Shaver Forwarding
Company, a subsidiary, in the amount of $70,000, and to
2270 acquire additional stock, preferred stock in Shaver Forwarding Company—I want to be sure of the amount (examining document)—$40,000, so that Consolidated has committed itself to the acquisition of stock in Shaver Forwarding Company and has also obligated itself on the endorsement of an obligation of Shaver Forwarding Company for $70,000 which is to be used by Shaver for the construction, or otherwise the acquisition of two dredges and a tugboat.

Mr. SCHAFER. Dredges? Barges.

The WITNESS. Barges. I beg your pardon.

Another significant point is that on May 31 Consolidated rendered a statement to this Commission which appears under your Exhibit 8, which indicates that during 1940, to May 31, 1940, that is, five months of the operating period, that there has already been added $110,710.18 to the investment in fixed assets.

Now, the acquisition of the fixed assets of $110,710.18, the investment in stock of Shaver Forwarding Company and the placing themselves in the position to be guarantor for the payment of a note for fixed assets of that company, together with the fact that the company has already presented a statement at December 31, 1939, showing very strained financial position, would indicate that it would be a serious matter for the company to expend large sums, or even any sums, for equipment in the very near future; that their success would depend entirely upon mak-
2271 ing large profits that could be used to retire indebtedness, and during 1940 it would be necessary to overcome $213,000, roughly, of the deficit in working capital, plus the $110,710.18 they have already invested in fixed assets.

By Mr. ELLIS:

Q. When you use the term "deficit and working capital" and the figure "$213,000" as of December 31, 1939, am I correct in understanding that the company on that date lacked that much of being able to meet its current obligations?

A. That is correct. Now, there was one other order of the Commission that indicated during 1940 the company had borrowed sums of money and gave as collateral security its truck equipment.

By checking the orders through 1939 and 1940 in which the orders disclosed the number of pieces of equipment that were being pledged as security, indicated that very large percentage of the equipment was hypothecated. In other words, I mean to point out by this fact that the company has used its truck equipment as a reservoir for the acquisition of funds they borrowed against it. But they have gone in that direction so far that they have now used a large majority—I cannot say exactly what percentage—but a large majority of their truck equipment and other fixed assets as a means of obtaining capital for their working capital.

Q. There is evidence in this case that that company would be required to purchase at least five trucks and trailers and
2272 other equipment costing approximately $47,500, and in addition contemplates additional terminal facilities to the extent of approximately $62,000, or a total of $109,500.

I would like to ask you whether or not from your examination of these accounts and your analysis thereof what your opinion is as to the ability of the company to undertake at this time this additional investment?

A. I believe that the truck equipment is a serious matter because it requires the payment within a comparatively short period of time. The terminal facilities would probably not be as greatly

burdened because there could be probably long term financing to cover a portion of that. But it does add a great deal of strain to the already strained financial position.

Q. In the event it should develop that the operation of the line during the early years of operation, at least, would be unprofitable, what in your opinion would be the effect on the company as a whole in its existing operations?

A. Well, undoubtedly it would have to call upon its creditors to extend the time for the payment of its debts.

Q. Have you any other comment to add, Mr. Buell?

A. I think I have covered principally the points I had in mind.

Mr. ELLIS. Cross-examine.

Mr. SCHAFER. If the Board please, the financial
2273 information is not current.

Apparently——

Mr. ELLIS. (interposing). Before you proceed, may I offer Exhibit 64 in evidence?

Mr. SCHAFER. No objection.

Chairman TERRIL. Hearing no objection, the Exhibit will be received in evidence and marked as No. 64.

(Exhibit 64, Witness Buell, received in evidence.)

Mr. SCHAFER. If the Board please, the only witnesses I have competent to meet this type of testimony on rebuttal are in Portland.

Mr. Ellis is a Portland attorney, at least part of the time, and the accountant is a Portland accountant. And I would like to have permission to have the depositions of either Mr. James or our accountants to meet this type of evidence.

I shall give you an example of how misleading it can be. The Shaver Forwarding loan, for instance, this witness has indicated that Consolidated has obligated itself to pay a $70,000 loan to Shaver Forwarding Company.

I happen to have drawn the contracts in this case, and I know that it is an RFC loan secured by $150,000 worth of river equipment, a tugboat and two barges. The RFC rules provide as a formality that another corporation owning control would also have to go on the note.

2274 There is no question about the adequacy of the security in that case, and this testimony hits us as an unfair disadvantage because it was not advanced when we had a witness present who could meet it.

I think that the record may show that the terminal in Oakland will be built whether or not this application goes through, and I think it would be proper to allow us to put into evidence what we are presently paying for rent in the Bay area to show whether or not it would be a prudent and wise business investment for us

to undertake to buy a terminal over a period of years. Who knows? The payments on the terminal may be less than we are now paying for rent. And for that reason and dozens of others I am requesting that we be allowed to take the depositions of our witnesses at Portland on that point as soon as this transcript is available.

Mr. HOLBROOK. Particularly on account of the complete surprise. There was no warning at any time by any attorney as to this type of testimony.

Mr. ELLIS. If the Board please, this witness was in attendance at the previous hearing, and his profession is well known and his employment on our behalf is well known.

Mr. SCHAFER. I never knew his profession until this minute.

Mr. ELLIS. In the second place, this is nothing more than
2275 rebuttal to the showing presented by the applicant in this case, an analysis of a purported financial statement which necessarily they must have expected would be subject to accurate analysis in view of its incompleteness and the manner in which it was submitted.

Now, I cannot see how anyone can contend surprise when it is merely a reply, an analysis of their own financial statement which they filed with their application and which they filed as a necessary part of their case.

If counsel does not make a case on direct and establish his financial ability, it seems to me it is a poor time after this record is closed to ask the privilege of doing it by deposition. That is exactly what this amounts to.

Mr. SCHAFER. Now, without casting any reflection upon counsel for the protestant, he states that this witness has been around here for days. He apparently has made certain that we are helpless in meeting this type of testimony before putting him on.

Mr. ELLIS. I did not say he had been here for days. I said he had been here at the other hearing and we were unable to hear him.

Mr. SCHAFER. I repeat it is the grossest kind of unfair conduct on the part of protestants to wait and wait and wait until they are certain that there is no opportunity for the applicant to meet these loose allegations based on stacks of figures without
2276 any opportunity to explain them, and fair conduct of this hearing absolutely requires that we be given a fair opportunity to meet these statements and explain the items which this accountant has described here.

Chairman TERRIL. Just a moment. Mr. Ellis, I take it that this testimony is directed solely to the Consolidated case?

Mr. ELLIS. That is true, directed solely to the Consolidated case and is directed to the financial fitness and ability of that applicant.

Mr. BEROL. May I interrupt at this point?

Chairman TERRIL. Just one moment, please.

Mr. BEROL. I want to ask a question. The question that I was going to ask was going to be: If it is Mr. Ellis' purpose to have Mr. Buell offer similar testimony so far as O. N. C. is concerned, I want at this time, being Saturday afternoon, to see if I can put a telephone call through for our accountant so he can be available.

Mr. ELLIS. No; it is not for that purpose.

Mr. BEROL. Very well. I will rest on the inference.

Chairman TERRIL. Off the record a minute.

(Discussion outside the record.)

Chairman TERRIL. On the record.

Mr. SCHAFER. May I make a further remark on the record at this time?

2277 I would like to state that if counsel had acted fairly and told me yesterday when I saw this witness present in the lobby of the hotel and spoke to him—I have seen him somewhere before but didn't know what his business was and did not ask him—but if he had been fair enough to tell me yesterday what he proposed to do, I could have had Mr. James here by airplane. I talked to him on the phone this morning. If I had know it then, I certainly would have urged him to be here to meet this type of testimony.

Mr. ELLIS. I had introduced Mr. Schafer to Mr. Buell. I dislike this inference of unfairness.

Mr. Buell was in the hearing room before, and I had every belief that Mr. Schafer knew that Mr. Buell was a certified public accountant and that he was one of my witnesses. I had not the slightest thought of anything else. In fact, I asked Mr. Buell if he knew Mr. Schafer, and he said he not only knew Mr. Schafer but he had taken his wife to the Fair the last time he was down here.

Mr. SCHAFER. That is correct. I learned that today for the first time today, too.

Chairman TERRIL. Well, I think everybody has cleared himself all right.

Off the record.

(Discussion outside the record.)

2278 Chairman TERRIL. In view of the discussion off the record, will it be agreeable to Mr. Ellis, representing Pierce Auto Freight Lines, and you, Mr. Schafer, representing Consolidated Freightways, if the cross-examination of this witness and the presentation of rebuttal as to this point alone, that is, the financial situation that was covered by this witness' testimony, is deferred to a time and place in Portland to be fixed at this evening's session?

Mr. SCHAFER. That will be entirely satisfactory.

Chairman TERRIL. The Examiner now in attendance will be in Portland at that time, and I as the Oregon representative of the Board will be able to be in attendance to hear the testimony likewise, no other matters to be presented at that time or place.

Mr. SCHAFER. Except cross-examination of this witness and rebuttal as to points out by this witness only?

Chairman TERRIL. Yes.

Mr. SCHAFER. That is very fair.

Mr. BEROL. That is agreeable with me. With that understanding I will now announce that I will not be present.

Chairman TERRIL. Do any other counsel who are interested in the case see any objection or offer any objection to such an arrangement?

Mr. IVERS. No objection.

Mr. ELLIS. Notwithstanding the unusual nature of the request, rather than have any suggestion of unfairness to the applicant, I willingly and gladly consent to the arrangement.

Chairman TERRIL. With that understanding, Mr. Buell,
2279 you will be temporarily excused at this time.

(Witness temporarily excused.)

2280 A. C. PIERCE was recalled and testified as follows:

Cross-examination by Mr. SCHAFER:

Q. Mr. Pierce, in computing the tonnage which might be available to Consolidated Freightways on this schedule which operates through Klamath Falls and Portland to Seattle, did you allow for any north-bound loadings which may arise at Klamath Falls for Portland and at Portland for Seattle.

A. No; I did not.

Q. Are you prepared to state whether there are now commodities moving over Consolidated Freightways in substantial volumes from Klamath Falls to Portland?

A. It is my understanding, Mr. Schafer, that this was a "hot shot" schedule, which wouldn't be delayed.

If you are going to have to stop at very many places in transit to pick up any particular volume of freight, you are going to be faced with a more difficult problem than ever to meet the schedule which you propose.

I thought that the schedule proposed for a through service without the proposal of picking up intermediate freight. I understood you would have to deliver intermediate freight, as far as picking up that freight, I thought it would be handled on your local schedule out of Southern Oregon into Seattle. It would

seem to me from a practical operation standpoint that would be a practical way to handle it.

2281 Mr. SCHAFER. I have forgotten my question. Will you read it?

(The question referred to was read by the Reporter.)

Chairman TERRELL. Will you answer that question, please, Mr. Pierce?

By Mr. SCHAFER:

Q. Do you know?

A. Yes. There is a certain volume, at least that is my understanding. I am quite sure it is correct.

Q. You are aware, are you not, that Consolidated presently operates a motor common carrier service between Portland and Seattle?

A. Yes.

Q. Handling freight in both directions?

A. For Tacoma and Seattle, but not intermediate points between Portland and Tacoma.

Q. I asked "between Portland and Seattle."

A. That is correct.

Q. And likewise south-bound from Seattle to Portland?

A. Yes, sir.

Q. And Portland to Medford and Portland to Klamath Falls?

A. Yes.

Q. So you have no way of computing, have you, what percentage of the space in a truck might be taken up by freight moving between points presently served by Consolidated Freightways?

A. If you are going to handle——

2282 Q. Please answer the question, and then you can explain your answer.

A. The question was whether I have any way of computing?

Q. Yes.

A. No; I do not. I would like to add, however, that, as previously mentioned, I thought that this was going to be a "hot shot" schedule, running expedited—rendering expedited service, and if you are going to render a local service on that, your difficulties are going to be increased.

Q. Now, was it your understanding that Consolidated with space in its vehicles was going to run right past available freight and employ other vehicles to transport such freight on limited hauls between Seattle and Portland?

A. Not necessarily Seattle and Portland.

Q. I will ask you another question: Did you hear the testimony of Consolidated witnesses to the effect that freight from Seattle to San Francisco would be loaded first in the vehicles, and that any

space available would be filled out with Seattle and Portland freight?

A. I may have. I am not certain.

Q. Now, on the San Francisco-Spokane run through Klamath Falls and Biggs, I believe you have allowed us half of the present volume of 20,000 pounds moving north-bound from Portland to Spokane; is that right?

A. From San Francisco.

2283 Q. Can you state what the figure you gave on Spokane was?

A. Yes.

Q. What you expected us to have?

A. Six-ton north-bound, two tons south-bound, total of eight tons.

Q. Now, did you hear the testimony of Consolidated witnesses to the effect that if this application is granted that a 24-hour savings could be made on freight presently moving into all points north and west of Butte, Montana, now moving via Twin Falls and Butte with two transfers enroute?

A. Mr. Schafer, I heard most of that testimony, I believe. But to be specific as to that particular testimony, I am not certain. I know that several witnesses testified as to a substantial saving to the northwestern points if this application was granted.

Q. The question I asked was with respect to the freight, the 15,000 pounds daily presently moving over Consolidated Freightways to Twin Falls, Idaho, and thence over Garrett Freight Ways to Butte, Montana.

A. I don't specifically remember that; no. I was in doubt there, but I don't recall.

Q. And if that 15,000 pounds daily were added to the six tons which you have allowed, it would make a difference in your computations; would it not?

A. If you handled that on this Spokane schedule?

2284 Q. Yes.

A. Yes, indeed. However, those through schedules could be rendered at the present time with the operation of through equipment.

Q. If it should appear to you that by reason of this 150-mile shorter route to Spokane over a straighter, leveler, less-congested highway, that Consolidated Freightways could advantageously route all freight moving to Montana and points east via Spokane, providing an additional volume of freight, that would also affect the accuracy of your estimates, would it not?

A. Well, any additional traffic that you can secure for that particular schedule would naturally be helpful in making it more profitable. My contention all the way through is—

Q. Now, Mr. Pierce, after every question you undertake to argue the case. I do not want to interfere with the explanation of any answers that you give, but I am going to ask the Board to instruct you not to argue. You profess to be in a hurry, and it will save everyone's time, and the case will be just as well done, I am sure.

A. You don't want me to finish my statement?

Q. Finish your statement. Go ahead. I want you to finish your statement and explain it.

A. Through proper connections with a connecting carrier, the time-saving in time could be accomplished.

2285 Q. You do not profess to have any knowledge of the problems at Twin Falls and Butte, do you?

A. No; I do not.

Q. All the question asked for was an assumption, that it would be advisable to route it through Spokane. So your answer is that the more freight that is available, the less accurate your figures become on the estimated profits?

A. That is true; yes.

Q. The same would apply west-bound; if it should appear to you that all of the freight presently moving over Consolidated Freightways from Chicago, Minneapolis, and eastern points to Pacific Coast, San Francisco, and Los Angeles, were to move over this route south-bound and furnish a substantial south-bound volume, that would also offset the figures which you gave?

A. Do I understand that this route you are now speaking of is the one that goes up through Klamath Falls, Bend, and Biggs?

Q. That is correct.

A. Well, that wasn's according to the testimony as I understood it, that any such tonnage was going to be routed back that way.

Your purpose of routing that Spokane-Portland truck into Portland was because there was a very small volume of traffic and you stopped it there and transferred the Spokane Freight to the Portland-San Francisco schedule and used that as a local truck into Klamath Falls for arrival in the morning and

2286 unloading and dispatched it for San Francisco.

Q. Now, as a matter of fact, Mr. Pierce, do you not recall definite testimony given when you were present at the hearing to the effect that any time a volume was sufficient to warrant the direct operation from Spokane to San Francisco, such an operation would be conducted and, that in the absence of a sufficient south-bound volume, the schedule would be correlated with the local schedule through Portland and Klamath Falls?

A. I don't recall that, but I wouldn't say that that wasn't the case.

Q. Now, your estimate of operating costs includes general overhead; does it not?

A. Yes, sir.

Q. If no new terminals are to be required, no new supervision, no new general managerial expense, or other general overhead is involved, do you still contend that the out-of-pocket cost of the operation of additional mileage will be as you indicated, 35 cents or 30 cents?

A. That—you can't make an expansion program without increasing—making some overhead increases out of the type that you propose, but it would make—if you already have your terminals, it would make some difference.

Q. Do you know what difference it would make on your line to operate additional miles without additional overhead expense whatsoever?

2287 A. No.

Q. In other words, do you know the difference between your out-of-pocket cost and your over-all cost?

A. I know our over-the-road cost and our overhead cost. I have those figures separate.

Q. How do those figures—can you give those figures roughly offhand?

A. Yes; I can. These figures were compiled for the first four months of this year. Our over-the-road cost amounted to 17 cents a mile, and our overhead cost amounted to 22 cents a mile, or a total of 39 cents.

Q. Then the additional operations based on the assumption that there will be no additional overhead, general overhead, could be conducted if you were conducting it for 17 cents a mile, the bare out-of-pocket cost?

Mr. ELLIS. Of what additional operations are you talking? The additional miles operated in Oregon or the additional miles operated in entirely different new territory?

Mr. SCHAFER. Does the witness understand the question?

The WITNESS. I believe I do. If it was in your present territory, it wouldn't make a great deal of difference, and I am not in a position to state just what difference it would make, if any. But, however, extending into a new territory, I am certain that it would increase your costs some.

By Mr. SCHAFER:

2288 Q. Now, then, if 17 cents is the correct additional cost, to be incurred rather than 30 cents, you will concede, will you not, that your figures are inaccurate to that extent in purely reflecting the loss to be expected?

A. No; because you can't make an expansion program without involving increased overhead cost.

Mr. SCHAFER. Will you read the question, please, Mr. Reporter?
(The question referred to was read by the Reporter.)
The WITNESS. No.

By Mr. SCHAFER:

Now, you understood that question. We are assuming that 17 cents is the correct additional cost which would be incurred by Consolidated Freightways, which is your out-of-pocket cost.

Is it not patent on its face that your cost figure of 30 cents is misleading?

A. No.

Q. Please explain your answer.

A. Well, you have—you must pick up this freight, pick up and deliver freight. It requires billing and station agents, commission agents.

Q. Then the 17-cent figure you gave is not your out-of-pocket cost; it is merely your road operating cost?

A. That is true.

Q. Have you any figure on the difference between your out-of-pocket cost as distinguished from your over-all cost?

2289 A. No; I haven't, Mr. Schafer.

Q. Assuming that the billing clerks are employed at a weekly wage, the difference in expense would be only to the extent that more billing clerks would have to be employed; is that not true?

If you had a set-up capable of handling the volume of business involved, why, there would be no additional expense?

A. Your expense wouldn't be as great if you had your billing machines and they were sufficient to take care of the additional billing.

Q. Now, in your computations also you failed to take into account any increase in south-bound business; did you not?

A. Yes.

Q. You heard the testimony of the creamery men from La Grande and Baker and John Day, Oregon? I do not recall their names, but did you hear the creamery men testify to the effect that if they had such a second-morning service as Consolidated was proposing, that they would expect to do an increased volume of business in the San Francisco Bay territory?

A. I think I heard that testimony. I am not certain.

Q. And you heard the cattle man from Redmond? Sterns, I believe his name was.

A. I don't recall.

Q. He testified that he had no common carrier less than carload—or truckload livestock service between central Oregon

2290 and the San Francisco Bay territory?

A. I remember that he testified, but as to remembering what he testified to, I don't recall.

Mr. ELLIS. I do not like to object, but it seems to me it is obvious that this cross-examination is getting nowhere because it is nothing more than a repetition of the applicant's own testimony of hoped-for traffic, and nothing was contended for Mr. Pierce's analysis except that it analyzes this carrier's own records of presently moving traffic interchanged between the two carriers on the Oregon-Cal. Line.

Mr. SCHAFER. In response to that, I would like to point out that the applicant is going to—I mean the Protestant has gone to great pains to prove with his figures that there is no prospect whatsoever of this operation being successful financially, and this line of questioning is to point out the various things which he overlooked in getting his admission that he did overlook them.

Chairman TERRIL. You may have the question.

By Mr. SCHAFER:

Q. And you heard the testimony, Mr. Pierce, regarding the 25 tons moving each way weekly between Klamath Falls and San Francisco over the Reymers Truck Line, which Consolidated seeks to purchase?

A. Well, frankly, Mr. Schafer, I probably did. But I didn't take any particular notice of that testimony. I didn't recheck it as all the other testimony I have read since. But as to
2291 what they testified to, I won't attempt to say.

Q. Now, you also based your computations upon the practicability of the present joint operations, upon the assumption that Consolidated Freightways was enjoying the northbound interchange at Medford at the present time; did you not?

A. Yes, sir.

Q. And you know, do you not, that the Oregon-California Fast Freight presently favors another carrier between Medford and Portland?

A. I understand that some different arrangements have been made for transportation of the tonnage.

Q. So your illustration was based upon a false set of facts; is that not true? In other words, there is not such an interchange at the present date?

A. That is true, as far as freight moving to Portland and points beyond. But it wasn't at the time the exhibit was submitted, which I used to arrive at these figures.

Q. As of the present date, then, the figures which you were using are incorrect?

A. Well, I understand that this freight is being transferred to Pacific Seaboard Motor Lines for Portland points beyond, possibly Grants Pass. I don't know exactly what is being done.

Q. You testified that your extension into San Francisco was brought about by your inability to obtain a friendly noncompetitive connection south of Medford?

2292 A. Yes; that is true.

Q. Now, in view of the changed situation at Medford, since the exhibit was prepared, does it not appear now that Consolidated now is confronted with exactly the situation which you then were confronted with?

Mr. IVERS. I am going to object to this question on the ground that the question is being asked on cross-examination by a representative or the attorney for the Consolidated Freightways in the record here, and the applicant amply demonstrates at this point that the situation which confronted Consolidated was Consolidated's own creation and because of that fact and because they initiated originally the application upon which we are now holding a hearing, and as the evidence showed, forced the other connecting carrier to make a similar application, that they are not in a position to ask of this witness that question.

Mr. ELLIS. I join in that objection.

Chairman TERRIL. May we have the question?

Mr. SCHAFER. In answer to that, I would like to state that Mr. Pierce's testimony was based upon the assumption that Consolidated Freightways and Oregon-Cal. were operating closely.

Mr. BEROL. I cannot hear counsel. I would like to hear him.

Mr. SCHAFER. I say——

Chairman TERRIL. Read the statement thus far, and will

2293 you then talk a little bit louder.

(The record referred to was read by the Reporter.)

Mr. SCHAFER. And that there was in existence for the use of Consolidated Freightways a friendly noncompetitive outlet.

Mr. IVERS. That is exactly the reason why I made my objection. Mr. Pierce had a perfect right in assuming that the condition which existed before this application was made was the condition upon which the assumptions should properly be made. Was a friendly cooperative situation existing until Consolidated made this situation and created the noncooperative situation?

Mr. SCHAFER. I merely asked whether his testimony was based upon that assumption.

Chairman TERRIL. The objection will be overruled.

Read that question, please.

(The question referred to was read by the Reporter.)

The WITNESS. I would say partially so. However, if I had been in the fortunate position as your company has been for the last

several years, I don't think any situation would have ever resulted as has taken place in recent weeks.

By Mr. SCHAFER:

Q. Your Exhibit No. 42, showing a graph of declining freight rates is applicable between what point?

A. Primarily in the Oregon territory, with the exception of the weekly schedule which was started in 1938 to San Francisco, this is the operation as a whole.

2294 Q. It goes back before the weekly schedule, also; does it not?

A. In fact, it covers two months in 1938 of a daily operation and then also includes a portion of the weekly operation, and then also gets back to the daily operation in June of this year.

Q. Is it a fact that the principle reflection bears upon traffic moved in Oregon?

A. Yes; that is true, Mr. Schafer. However, there is a very close relationship between the rates in California and Oregon so far as the traffic moving from the Bay region to southern Oregon and from Portland to the southern Oregon territory. But the rate structure for miles travelled moving out of the San Francisco Bay territory to Portland and points beyond, in comparison to distance travelled, is far less than what this exhibit would show.

Q. Now, you stated that boat traffic, or traffic formerly moving by boats and since diverted by reason of fewer boat schedules, was not attractive to trucks, and I will ask you if you recall the volume of l. c. l. freight which used to move by boats and which you enjoyed from Portland to points south of Portland?

A. We used to enjoy some, and I think we still do. I don't know to what extent, though.

Q. Are you prepared to state whether or not the amount of l. c. l. traffic which formerly was turned over to you at Port-

2295 land, having been brought to Portland by boats, has declined in the past several years since 1934?

A. I think it has.

Q. That traffic did not revert to rail carload; did it?

A. You are speaking of the l. c. l. traffic?

Q. That is right.

A. No; I think you are correct so far as that small l. c. l. movement. I doubt whether that reverted to carload rail movement. But the reason that that could be handled that way was on account of the cheapness of the boat rates into Portland and the addition of the local rates from Portland back to the intermediate point, is the reason it could move that way in the first place.

Q. Now, in view of your further explanation or argument, I would like to ask you whether or not rail l. c. l. rates on general

commodities moving between San Francisco Bay territory and points on your line in Oregon are comparable to the truck rates between the same points.

A. The l. c. l. rail rates——

Q. Comparable to the l. c. l. truck rates between the same points?

A. I believe they are.

Q. So that freight which formerly moved l. c. l. via steamer and enjoyed a lower rate which, of course, was the reason why it moved by steamer, when turned over to land carriers became
2296 available to trucks on an equal basis with the railroads?

A. No. For the most part until recent months, the truck rates were considerable higher than the rail rates. It is only, let's say, in the past year or so, that the rail rates have gone down and the truck rates—truck operators have attempted to follow the pursuit of the rails in order to remain competitive, or somewhere near there, in their pick-up and delivery rates. In fact, the rate structure as a whole from this territory into the northwest has been reduced materially during the past several years. The rate from here to Seattle is the same as it is from here to Portland, a distance which is 200 miles further.

Chairman TERRIL. I think we will recess at this time.

Off the record.

(Discussion outside the record.)

Chairman TERRIL. We will adjourn until 6:30.

(Whereupon, at 5:10 P. M., an adjournment was taken until 6:30 P. M. of the same day.)

2297 EVENING SESSION 6:50 P. M.

Chairman TERRIL. Proceed, gentlemen.

A. C. PIERCE recalled as a witness, having been previously duly sworn, testified further as follows:

Cross-examination (resumed) by Mr. SCHAFER:

Q. Is A. C. Hubbard a stockholder in your company?

A. Yes.

Q. A common stockholder, is he not?

A. Yes. He owns 2½ or 3 shares.

Q. He is the father of the Hubbard who testified as public witness at the last session, who testified that he was entirely satisfied with your services?

A. Yes.

Q. Now, you have given your over-all operating times, but you have not stated what time your equipment arrives at Portland from San Francisco.

A. Second morning.

Q. It arrives about what time the second morning?

A. Oh, six, seven o'clock.

Q. Then you connect for Spokane schedules leaving Portland the second evening?

2298 A. We transfer—interchange the freight during the day and it leaves Portland that evening for delivery in Spokane the following morning, which would be the third morning delivery from San Francisco.

Q. So far as your operation is concerned, there is really not much object in getting to Portland any sooner than that; is there?

A. Well, we don't arrive in Medford, Mr. Schafer, in time to make deliveries to any points further north than Grants Pass, and at least we haven't been able to so far. And I think we have a fairly expedited service between San Francisco and Medford.

Mr. SCHAFER. Will you read the question, please?

(The question was read by the reporter.)

By Mr. SCHAFER:

Q. Do you understand the question?

A. There is no object in getting to Portland any earlier than the second morning delivery out of San Francisco unless you can get in there in sufficient time to make a transfer for points—the second evening out of San Francisco to make connections for points beyond.

Q. You mean unless you could arrive there the first evening for connecting——

A. Yes; first evening, in other words, we would have to arrive there around 5:00 o'clock p. m. to make connections to these points beyond.

2299 Q. If you cannot make your 5:00 p. m. arrival at Portland, there is no objection in hurrying?

A. There is no object because we can't even get as far north as Roseburg and make delivery.

Q. Now, these restricted speed areas which you discussed included such communities as Yreka, Ashland, Medford, Grants Pass, Roseburg, and Cottage Grove, points not on the route through Klamath Falls, is that not true?

A. That is true.

Q. Have you been over both routes?

A. Yes.

Q. Would you say that there are more grades and curves from Weed to Eugene via Medford than via Klamath Falls?

A. Yes.

Q. Sexton Mountain was one of the points that you referred to as seriously affecting the average speed.

Is that between Weed and Eugene?

A. Yes.

Q. Well, assuming that a schedule out of San Francisco in the evening would be running at night at least as far as Weed, can you think of anything between Weed and Klamath Falls in the way of congestion or school stops that would hold up a schedule in any respect?

A. No. The weather conditions during the winter months in that territory could hold you up for a considerable length of
2300 time and could slow you down because it is a bad stretch through there as far as weather conditions are concerned, but not as far as schools or undue heavy traffic is concerned.

Q. Now, in computing the difference in cost of tires, as it is affected by the speed of the vehicle, have you figured out any difference we will say, between 30 and 40 miles per hour, how much difference that would cause in the cost of tires?

I will just shorten it by asking if there is any material difference between those two speeds, 30 and 40?

A. I don't know between 30 and 40. I could give you between 35 and 40. That is the information I gave on direct.

Q. Well, is that in the record? Did you say 45 percent difference?

A. Just a minute and I will give it to you. Between 35 miles and 55 miles an hour there is a reduction in mileage of 45 percent, or an increase in cost of 49 percent.

Q. May I see that, please?

This scale here shows a difference of 12 percent between 35 and 40; is that correct?

A. In reduction—reduction in tire mileage; yes.

Q. Now——

A. To answer your question further, the difference—I can give you the difference between 35 and 50, if you desire that.

Q. No; I want it 35 and 40.

2301 A. Beg pardon?

Q. 35 and 40 is the question.

A. Well, I—the 12 percent is reduction in tire mileage, but I don't have the percentage of increase in cost.

Q. Now, in commenting upon the safety record of Consolidated Freightways, which was testified to as three-fourths of a reportable accident per hundred thousand miles, you indicated that you have gone 1,400,000 miles without a serious accident.

Was it your understanding that a reportable accident is any accident which involves damage of any kind to property or injury to any person?

A. I wasn't gauging it according to any requirements as to reporting accidents.

Q. Do you know——

A. I know from my own experience what serious accidents have taken place in our operation over a reasonable period of time. I am close enough in touch with our operations to do that.

Q. You did not mean by your answer to indicate that you had no accidents of any kind for 1,400,000 miles?

A. No; I did not.

Q. You have a computation comparable to that which Consolidated testified to?

A. I don't know how it would compare. Ours has been very good, that is, for the past two years. We have had some serious accidents in the past which have been accountable

2302 directly to speed.

Q. You do not handle San Francisco-Klamath Falls freight; do you?

A. No; we don't have any rights in there. However, in the past with the Valley Express there has been a reasonable amount of it handled through interchange at Medford with O. C. But we don't make it a practice of accepting Klamath Falls freight.

Q. Is that also true of Lakeview, Bend and Burns.

A. That is true of Lakeview. I am not sure about Bend and Burns. There has been some freight, I believe, interchanged at Portland and transferred to the Bend-Portland truck service, but I am not certain of that.

Q. You are not opposing the application, then, insofar as it affects those points which mean nothing to you; are you?

A. Oh, yes.

Q. Aside from your concern for our financial condition, what reason do you have for opposing our application to serve Klamath Falls and such points as may be served north of Klamath Falls that you do not serve?

A. Once you start operating between San Francisco and those points, very likely it wouldn't be long before you would be endeavoring to serve the other territory.

Q. That is your reason for opposing the entire application?

2303 A. And I see no need for any service in that territory. I think O. C. is handling it very satisfactorily, as far as I know.

Q. Now, if you serve Bend out of Portland, the best you could possibly do would be third morning in Bend; is that true?

A. Under our present operation, that is correct.

Q. That is good enough for Bend, so far as you can see?

A. Well, they can get better service than that at the present time via the Oregon-Nevada-California Fast Freight. There isn't any particular reason why a shipper would ship freight via us and accept third morning delivery.

Q. Do you know what service they get now via Oregon—well, that is in the record. I shall not press that point, to save time here.

What volume of your total business did you state is moved between San Francisco and Spokane, points in eastern and central Washington?

Could you state just roughly?

A. No; I couldn't, not until I find the exhibit.

Q. Are you referring to Exhibit 43?

A. I do not have the exhibit in front of me.

Q. Does that exhibit show what portion of your total tonnage moves into the Spokane area?

A. Well, this covers the period from July 1, 1939, to June 24, 1940, which is the weekly schedule, and also any other freight.

2304 that might have been transferred to us by Oregon-Nevada-California Fast Freight, or a portion of the Valley Express tonnage.

I have the figure in pounds, but not in percentages.

Q. You have the total?

A. Yes.

Q. Am I correct in stating that north-bound of a total of 824,623 pounds, 98,971, or approximately 1/8th was destined to the Spokane area?

A. I believe that is correct; approximately correct, at least.

Q. And assuming that that is still the approximate proportion you would be moving 1/8th of 9 tons in there per day at the present time; is that not a fact?

A. No; because we are on a daily scheduled operation now, whereas this was on a weekly schedule, Mr. Schafer.

Q. Would the proportion change?

A. Very materially so. It should change because weekly operation is not to be compared with a daily operation as far as service is concerned.

Q. Do you have any idea at all what——

A. No; I do not.

Q. What portion of your present 9 tons is transferred to Spokane?

A. I haven't the slightest idea.

2305 Q. You could not say, then, to what extent a loss of it would affect you?

A. No; I cannot.

Q. In computing the safety of operation, have you prepared any figures bearing upon the schedule which Consolidated proposes to operate between San Francisco and Spokane via Klamath Falls and Biggs?

A. I don't believe I understand your question.

Q. Are you prepared to state whether or not the schedule which Consolidated proposes through Klamath Falls and Biggs to Spokane showing an arrival in Spokane around 3:00 a. m. second morning is or is not an entirely safe operation, in your opinion?

2306 A. I didn't check that schedule as to time, Mr. Schafer, as I did the Portland schedule.

Q. You will concede, will you not, that is 150 miles shorter and through a less congested area and over a faster road?

A. I don't know what the distance is via that route.

Q. All points north of Portland like Seattle, Wenatchee, Yakima, Grace Harbor points, and so forth, via your line are third morning; is that not a fact?

A. You said "Portland." Portland is second.

Q. All points north of Portland?

A. Is third morning delivery?

Q. Yes.

A. That is correct.

Q. How do you route Wenatchee? Do you know? Via Seattle or via Portland?

A. I am not certain. It has moved both ways, I believe, at different times. I don't know how it is moved just now.

Q. Via Seattle it would necessarily be fourth morning; would it not?

A. I think that was true for a time, but my recollection is some change was made through another carrier which would permit third morning delivery, although I am not certain.

Q. Do you handle any volume of freight at all into western Montana?

A. No; not of any volume.

2307 Q. Then if the tonnage which Consolidated as testified to for those points were hauled through Klamath Falls, that would not hurt you at all; would it?

I will not press that. That is for the brief.

Well, you will concede, will you not, Mr. Pierce, that you are unable to match the service which Consolidated is proposing for the inland territory, such as eastern Oregon, eastern and central Washington, northern Idaho and western Montana?

A. Unless you can secure a greater volume than what your exhibit indicates, practical operation would require the transfer of that tonnage and the service would be no different from that offered by the Pierce Auto Freight Lines at the present time.

Mr. SCHAFER. Will you read the question, please?

Well, never mind. I will ask another question.

By Mr. SCHAFER:

Q. Will you explain that answer, why Consolidated Freightways operating through Klamath Falls and Biggs and giving second morning on a direct through schedule to Spokane would not be a better service than you were able to perform or able to offer the people of that territory?

A. (No response.)

Mr. SCHAFER. If the Board wishes, I will drop the point because it is something that I can also argue in the brief.

2308 Chairman TERRIL. You have asked the question. If you want it answered now, you can have it.

The WITNESS. You say second morning delivery in Spokane?

By Mr. SCHAFER:

Q. Yes.

A. The only way that we could give second morning delivery in Spokane would be by reaching Portland in the evening in time to make connections at that point for interchange of lading to the Spokane territory. At the present time we have been unable to do so.

Q. You expect to be able to do so in the near future?

A. Not with any degree of safety I don't. Not unless we have sufficient tonnage to load full units to make it unnecessary to stop at way points, intermediate points.

Q. Now, in the past two years you have built your business up to 9 tons daily.

Will you state whether or not any substantial effort is required to build up such a steady volume of general less than truckload freight?

A. You mean two months; do you not, Mr. Schafer?

Q. Yes; the time that you have been operating.

A. Daily?

Q. All right, make it for two months. Has it increased since you started operating daily?

A. It has increased some; yes.

Q. How much was it before you started operating daily?

2309 A. Oh, it ran ten, eleven thousand pounds a day which we handled on the weekly schedule, and on the other days the tonnage we received was primarily that of the Valley Ex-

press tonnage which was transferred to us at Medford by the Oregon-Nevada-California Fast Freight.

Q. Will you state whether or not it has been your observation that since you started your operations into San Francisco your tonnage has increased gradually and substantially?

A. Not substantially, no; because we can't even load one unit as yet. We go out of here light.

Q. When you first came back into San Francisco with one schedule per week, did you have as much tonnage available to you as you have now?

A. No.

Q. In other words—

A. The difference between that, well, I think it would be—it would probably run between ten and twelve thousand pounds. That is merely an estimate, but I think it isn't very far off. And at the present time we have, according to last month's figure, north-bound 9¼ ton average per day and 4 ton south-bound.

Q. Now, you have been in the position to observe the Oregon-California-Consolidated through business and watched its growth over a period of years; have you not?

A. I would say generally so; yes.

2310 Q. And your own public witnesses stressed a desire to have a through single-line service as compared to a joint service; did they not?

A. I believe so.

Q. They did not want their goods rehandled, and complained about rehandling, as you recall it; did they not?

A. That is true.

Q. And you argued those same points to the Commission in that case. Are you still of that view, that a through single line service involving a transfer of lading is—a through single line service is superior to a joint service involving the transfer of lading at the midway point?

A. If you are required to interchange the lading; yes. I would say that the rehandling of the lading would constitute 90 per cent of the objections that any shippers might have, and it also removes the majority of objections. That is, a through movement of tonnage would remove the majority of objections that an operator would have, as far as increase in labor costs and other factors.

Q. And at equal rates, assuming that your solicitors are diligent and call upon the public and acquaint them with these advantages, would you not say that your solicitors would be able to get business away from a joint service involving a transfer of lading at a midway point?

A. Yes. If you are required to rehandle all of your lad-
2311 ing, I think that is true.

Q. Do I understand your position here is that if these applications are granted and Consolidated and Oregon-Cal. will take the business from you, that that will result in the impairment of your service?

A. Yes. You must bear in mind that the Oregon-Nevada-California Fast Freight Lines' application covers the right to serve interstate from Portland to points south of Drain, Oregon, which is the territory served by Pierce Auto Freight Lines.

Q. Do you have any idea what percentage you are now handling of the total moving by motor carrier out of the San Francisco Bay area?

A. No; I do not.

Q. Does it appear to you from your observations whether or not Oregon-Cal. and Consolidated are now handling substantially more general freight moving between San Francisco and the Pacific Northwest than all of the other motor carriers put together?

A. Well, I don't think I could—I really don't know if that is true, although I can say that they are handling a very substantial volume of tonnage, according to your exhibits.

Q. Is it not really your contention that Consolidated and Oregon-Cal. are permitted to compete on an equal basis with you without having to connect, that their business will be so easy for you to take?

2312 A. No; that isn't it at all. They are in a position to compete at the present time through the interchange of equipment and through their natural advantages, that is, O. C.'s in the San Francisco Bay region territory.

We find it very difficult, even with our through service to secure a fair portion of the tonnage moving to northwestern points.

Q. The tonnage which you have gotten since you started operating was taken from existing carriers, or was developed because of an increase in general business.

Do you have any idea which?

A. No; I can't say. Probably both, I would say. However, that is only a guess. It is difficult to tell.

Q. Do you recall whether or not Los Angeles-Seattle was competing with you more than two years ago?

A. In the San Francisco territory?

Q. In the San Francisco territory.

A. I don't recall of them.

Q. You do not know whether they ever had a solicitor in the San Francisco territory two years ago?

A. No; I don't know.

Q. Now, prior to the first hearing in Portland you sent out a great number of letters to the shippers,

Do you have any idea how many of those letters you sent?

Mr. ELLIS. That is objected to as improper cross
2313 examination. This witness has said nothing about letters in his direct examination.

Mr. SCHAFER. We have been past that objection before. I will indicate the purpose of the question.

I have here letters received by shippers in such distant points as Boise, Idaho, Spokane, Seattle, and all over the Pacific Northwest, mutigraphed letters which indicate that hundreds of them were sent out.

I have asked every witness who appeared here whether he got such a letter, and I think the fact that so many letters were sent out inviting the public to appear and protest the granting of these applications, thousands of them were sent out, but not one person appeared to protest is of itself significant and is evidence.

Mr. FARRENS. If the Board please, he gets me excited when he talks about hundreds of thousands. He will be talking about hundreds of millions next.

Mr. BEROL. It sounds like the Southern Pacific Company.

Mr. SCHAFER. And I propose to show further, if the Board please, that the representations made to the members of the public were quite exaggerated and——

Chairman TERRIL. Well, if you want to, inquire of this witness as to the contents; but I do not think that he should be required to answer as to how many of those letters he mailed out.

2314 Mr. ELLIS. I think counsel is exaggerating the contents of the letter that was sent out, which if he read it carefully at all, did nothing more than inform the shippers of the fact that such applications as are here involved were pending, and informed them of the existing service available, of the fact that his line was now furnishing daily service to San Francisco.

It incidentally inquired, I believe——

Mr. HOLBROOK. The letter itself would be better evidence of its contents.

Mr. ELLIS. If counsel wants to introduce the letter in evidence as his exhibit, an exhibit on behalf of applicants, I do not know that I could object, but it certainly is improper cross-examination.

Chairman TERRIL. The objection will be sustained.

Mr. SCHAFER. Well, I got them out of the book, anyway. I would like to make my offer of proof.

Mr. ELLIS. I am not objecting to the letter.

Chairman TERRIL. The Board has ruled upon the particular question, Mr. Schafer.

Mr. SCHAFER. It is appropriate, Mr. Chairman, in case of a ruling on an objection in order to——

Chairman TERRIL. Oh, yes; you may make an offer of proof. I misunderstood you.

Mr. SCHAFER. I offer to prove that Mr. Pierce sent a——

2315 Mr. FARRENS. Just a moment. Let's have the letter offered, please.

Mr. SCHAFER. All right. I will ask that it be given a number, please.

Mr. FARRENS. Are you prepared to meet the rule by furnishing copies to counsel?

Mr. SCHAFER. I can furnish a few copies.

Mr. FARRENS. Are they alike?

Mr. SCHAFER. They are all identical except the name of the addressee.

Mr. ELLIS. I raise no objection to the admission of the letter in evidence.

Chairman TERRIL. Do you wish to offer it?

Mr. SCHAFER. Yes; I would like to offer it.

Chairman TERRIL. The letter will be received in evidence, if there is no objection, and marked as Exhibit 65 in this matter.

(Exhibit 65, Witness Pierce, received in evidence.)

Mr. SCHAFER. Do I understand the ruling of the Board to be that Mr. Pierce is not to be questioned on the accuracy of the representations made to the shippers?

Chairman TERRIL. We ruled upon the particular question that you asked, I believe.

Mr. BEROL. The only ruling has been that he would not answer the question as to how many hundreds of thousands of

2316 documents he sent out.

Chairman TERRIL. We ruled on the specific question that was asked. The objection was sustained to it.

By Mr. SCHAFER:

Q. What method did you use, Mr. Pierce, in picking out the shippers to send those letters to?

Mr. ELLIS. It is to be distinctly understood that Mr. Pierce is now the witness of the applicant, Consolidated Freight Lines in this line of questioning? It is not proper cross-examination, but is examination on direct evidence Mr. Schafer desires to present through Mr. Pierce?

Mr. SCHAFER. Under Section 2055 of the California Code I will call Mr. Pierce as an adverse witness.

Mr. BEROL. Now, may it be understood, then, that the testimony that is about to be adduced is to apply only in the application of the Consolidated Freight Lines, because I do not intend that a

witness called by counsel for the applicant, Consolidated Freightways, without my concurring in that calling or in that testimony, will in any way become a part of my record so that I may have to deal with it.

Chairman TERRIL. It will be understood that any testimony offered by the witness as called by the applicant, Consolidated Freightways, will be considered only in connection with the Consolidated application. Is that satisfactory?

Mr. BEROL. Entirely satisfactory.

Mr. GLANZ. As a friend of the Court, may I express the
2317 view that Section 2055 of the California Civil Code is not applicable to a proceeding before a Federal administrative tribunal? And I cite as authority for that comment the rules of procedure that govern the Federal District Courts, and the weight of authority appears to be that Federal administrative tribunals are not bound by state rules of procedure.

Mr. BEROL. Off the record.

Chairman TERRIL. Off the record.

(Discussion outside the record.)

Chairman TERRIL. On the record.

A. C. PIERCE was recalled and testified further as follows:

Direct examination by Mr. SCHAFER:

Q. Well, now that you are my witness, Mr. Pierce, will you tell me how many of these letters you sent out?

A. I don't recall. Several hundred. I think somewhat less than a thousand.

Q. And what method did you use in picking out the shippers to send them to?

I will pass that question.

In that letter you tell the shipper:

"There are so many carriers serving this territory
2318 at the present time it has been extremely difficult for most of them to obtain sufficient traffic to make their operations profitable * * *"

You have heard the testimony in this case of a 400 percent increase enjoyed by Colletti Fast Freight?

A. Of what?

Q. 400 per cent increase?

A. No; I didn't hear that.

Q. You did not hear that?

A. No.

Q. Did you have any knowledge of your own as to their increases when you made these representations to somewhat less than a thousand shippers?

A. No.

Q. You certainly heard the testimony and you are aware of the increase shown by Los Angeles-Seattle over a three year period of 250 percent?

A. The Los Angeles-Seattle Motor Express?

Q. Yes.

A. No; I am not. I probably was here, but I wasn't paying any particular attention to the testimony as to that portion of it.

Q. Assuming that the statements were made, would you call that a pitiful situation such as you have held out to the shippers in your letter?

2319 Mr. IVERS. I object to that on the ground that the statement made in the letter refers to the profitableness of the operation, not the volume of traffic. It says: "Sufficient traffic to make their operations profitable * * *"

For that reason I object to the question.

Mr. SCHAFER. I withdraw the question.

By Mr. SCHAFER:

Q. When you make such representations to the shippers, did you contemplate that they had shown an increase in volume ranging from 250 percent to 400 percent?

Mr. IVERS. Same objection.

Mr. SCHAFER. Well, I am just meeting your objection by getting around to the question of profit.

Mr. IVERS. I must have misheard the question, then.

Chairman TERRIL. Will you give him the question, please, Mr. Reporter?

(The question referred to was read by the reporter.)

The WITNESS. I told you I didn't know.

Mr. IVERS. Just a moment. I have got an objection to that question, Mr. Pierce.

The WITNESS. Excuse me.

Mr. IVERS. That again refers to the increase in volume.

Mr. SCHAFER. I am asking him whether he contemplated that or the profit which they were making. I asked him what he meant when he represented that they were unable to obtain sufficient traffic to make their operations profitable.

2320 The WITNESS. Are you speaking of the Los Angeles-Seattle Motor Express?

By Mr. SCHAFER:

Q. The two carriers are mentioned, the Colletti and the Los Angeles-Seattle.

A. I didn't have the slightest idea how much volume of traffic they were handling.

Q. What carriers did you mean when you said "There are so many carriers serving this territory * * *"?

A. The list attached to the letter.

Q. All right. Let's refer to the list attached to the letter. The top one is Cascade Fast Freight.

Have you any idea of the volume of their business?

A. No; I couldn't say definitely. I think they are hauling quite a little freight.

Q. The next one is Colletti, and the third one is Los Aangeles-Seattle Motor Express. We have discussed those. You mentioned Oregon-Nevada-California Fast Freight and also Consolidated Freightways.

At the time of the letter that was one service rather than two; was it not?

Chairman TERRIL. Did you hear the question?

The WITNESS. Just a moment, please.

If you will refer to the Oregon-California Fast Freight you will find that that explanation reads, "between San Francisco * * * and Medford and Klamath Falls * * *"

2321 By Mr. SCHAFER:

Q. Well, to shorten this down, Mr. Pierce, is it not a fact that these representations were made to these shippers without any knowledge on your part whether they were able to obtain sufficient traffic to make their operations profitable?

A. Mr. Schafer, knowing the level of rates between California points and the northwest, there isn't any question in my mind from the experience I have had at all that any further division of this traffic is going to impair the ability of all the carriers to continue to serve the public.

Mr. HOLBROOK. Have the question read.

Mr. SCHAFER. Will you read the question, please?

(The question referred to was read by the reporter.)

The WITNESS. I don't know how much tonnage these operators had available, but I do know that it is reaching the point where it doesn't make much difference how much tonnage you have available as to whether you can make a profit or not.

Mr. SCHAFER. I believe that is all.

A. C. PIERCE recalled as a witness, testified further as follows:

CROSS-EXAMINATION (resumed)

Mr. HOLBROOK. Just a question, Mr. Berol, please.

2322 By Mr. HOLBROOK:

Q. Going back through that maze of figures that you presented, Mr. Pierce, could you throw some light on those figures that bore on that profit and loss sheet that you prepared for us?

Get back to the cost of operation of 30 cents a mile. Does that 30 cents a mile in any way include cost of loading? "Yes" or "No"?

A. Yes.

Q. What do you consider it cost per hundred weight to load a truck?

A. Just to load from the dock on to the truck?

Q. Correct.

A. About 2½ to 3 cents per hundred.

Q. 2½ to 3 cents per hundred. Now, does that include checking?

A. No.

Q. The waybilling and rating, and so forth?

A. No.

Q. How much would that be?

A. I haven't any breakdown on those expenses.

Q. Well, you have been in this business a long time. Can you not give me a rough estimate of that?

A. I can give you an idea of our cost of pick-up and delivery service.

Q. I do not want that. I want the rating, making out the
2323 waybill and checking the freight on the truck.

A. I don't have that.

Q. And if the mere cost of loading the freight onto the truck is 2½ cents, ranges between 2½ and 3 cents from the dock to the truck, what would be the cost, Mr. Pierce, of making a transfer per hundredweight such as we now make at Medford?

A. I assume it would be about the same.

Q. 3 cents?

A. 2½, 3 cents. That is according to my—according to our cost figures.

Q. Mr. Pierce, if in your operations you had added to your cost of operation 3 cents a hundred, you would be out of business; would you not?

A. I couldn't answer that without doing some figuring.

Q. Now, let us take the figures for the last three years.

Adding the 3 cents a hundred would have made an increase for 1938 up to about $11,000; would it not?

A. I don't know. I will take your word for it, whatever it is.

Q. Do you remember your tonnage this last six months?

A. No; I don't.

Q. Exhibit 41, I think, shows that; does it not?

Will you refer to that?

Mr. Ellis. Do I understand you are adding that 3 cents
2324 to all tonnage handled by Mr. Pierce, or only to the tonnage interchanged at Medford?

Mr. HOLBROOK. I am asking him the question per hundredweight.

The WITNESS. You are asking what?

Mr. HOLBROOK. What was it you wanted?

Mr. ELLIS. The question is are you applying that to all tonnage, or otherwise handled by Pierce Auto Lines?

The WITNESS. We do not interchange all tonnage.

By Mr. HOLBROOK:

Q. What difference would it make if you had that added cost on the tonnage in your business?

A. You have that exhibit.

Q. Just the last six months.

A. Just hurriedly here, multiplying 3 cents by—strike that. I had the wrong figure.

Hurriedly I arrive at the figure of $7,269.

Q. Very accurate, sir. That would in this last six months, then, put you at a net loss on your total operation of about $5,500; would it not?

A. If I had that much added expense surely it would amount to that.

Mr. HOLBROOK. Thank you very much.

The WITNESS. However, you must bear in mind, Mr. Holbrook, that we are not transferring that tonnage.

Mr. HOLBROOK. I understand clearly.

2325 The WITNESS. And the further fact there is a lot of——

By Mr. HOLBROOK:

Q. Now, what do you consider a well run truck line should spend on its gross receipts in administrative and general expenses? In percentage, please?

A. I don't know.

Q. Do you not have any idea?

A. Offhand I haven't.

Q. You have been conducting the business for a great many years?

A. That is true.

Q. Would you figure 25 per cent too high?

A. For administrative expenses?

Q. Yes, sir; administrative general expenses.

A. I wouldn't answer your question unless I could refer to my statements.

Q. Well, then, calling your attention to your exhibit 40 in 1935, if I read that correctly, you had about $13,000 or nearer $14,000; did you not, general expense, administrative expense?

A. The year 1935 shows approximately $14,000.

Q. Yes. Now, that took on about the same or about double the traffic receipts, doubling of the traffic receipts. You jumped to about three times that much; did you not?

A. In 19——

Q. 1936. I do not care for it exactly, Mr. Pierce.

A. Yes.

2326 Q. What is the occasion for that big jump? What proportion?

A. Expansion program similar to what you are embarking upon or proposing to embark upon.

Q. That is expense. Have you been expanding ever since then, Mr. Pierce?

A. To some extent we have. Not necessarily every year, not to the extent that we did at that time.

Q. Now, I wonder if you would take my computation of what that percentage is, 17.9 percent, or a little less than 18 percent in 1936. Does that check up?

A. What?

Q. Of your gross revenue?

A. Well, I will take your word for it, whatever it is.

Q. Would you grant that in 1937 it was 17 percent?

A. Compared with the total gross revenue?

Q. Yes.

A. Is that what it amounts to?

Q. Yes.

A. O. K. I am not taking time to figure it.

Q. Now, 1940. It happened to me about the same, Mr. Pierce?

A. 1940?

Q. The first six months?

A. Approximately the same; that is, as far as the administrative expense costs, not percentages.

Q. That has been brought about, this successive percent-

2327 age has been brought about by expansion during the 1, 2, 3, 4, 5, years; is that right?

A. Well, you will notice, Mr. Holbrook, after 1935 it has held fairly nearly level throughout the remaining years.

Q. Yes. But your statement, as I recall it, Mr. Pierce—now, correct me if I am wrong in this—was that the jump in 1936 was caused by expansion.

A. I think that is substantially correct. There may be other factors there. I would have to analyze the statement before I could give you a complete breakdown.

Q. And before that you were running at less than 10 percent; were you not?

Ten percent would be $14,000.

A. I think that is substantially correct.

Q. Mr. Pierce, you conduct your business in such a manner as to retain your customers ordinarily; do you not?

A. Try to.

Q. Well, then, is it not a fact that you would be more impaired by your failure to keep down your administrative and general expense than by anybody taking any business from you?

A. No.

Mr. HOLBROOK. That will be all.

Chairman TERRIL. We will take a few minutes recess.

(A brief recess was taken.)

Mr. BEROL. If the Board and the Examiner please,
2328 it might facilitate cross examination if at this time I offer an exhibit consisting of 5 pages entitled "Statement Containing Excerpts of Statement by Witness A. C. Pierce in Docket No. MC–17593 Sub No. 1."

I will ask that the statement described be marked for identification.

Chairman TERRIL. As Exhibit No. 66.

(Exhibit 66, Witness Pierce, marked for identification.)

Mr. BEROL. I might also state that to the best of my recollection the testimony offered by the Witness Pierce in the docket number indicated in Medford, Oregon, on or about July 2, 1937, and I might further state by way of explanation that the testimony offered in MC–17593, Sub No. 1, was in furtherance of the application of the Pierce Auto Freight Lines for an extension of operations between Medford, Oregon, and San Francisco Bay points.

Mr. GLANZ. May I ask, Mr. Berol, are you introducing that in the nature of an impeaching document or is it impeachment of the witness rather than as any proof of public convenience and necessity?

Mr. BEROL. I am offering it for whatever value it might have. I do not want to limit myself at this time as to what use I might eventually make of the document, or otherwise.

Mr. GLANZ. I would like to have the record show that pro-
testant, Colletti Fast Freight, objects to the receipt of
2329 the document insofar as it might affect its interest in the case.

Mr. BEROL. I think counsel is premature, it has not been offered yet.

Mr. GLANZ. I beg your pardon. I thought that was the offer.

By Mr. BEROL:

Q. Now, Mr. Pierce, will you refer, please, to page 2 of the exhibit marked for identification as Exhibit No. 66?

I think it might also be well if at this time I offer the document in evidence so that I may feel free to fully use it in cross-examining this witness, and I am now offering it.

Mr. GLANZ. I would like to have my objection as previously stated.

Mr. BEROL. I will submit the objection.

Mr. ELLIS. I have no objection to make.

Chairman TERRIL. The objection will be overruled. The exhibit will be received in evidence and marked as Exhibit No. 66 and you may have an exception to the ruling of the Board, Mr. Glanz.

Mr. GLANZ. I do not care for an exception. I do not think it is necessary.

(Exhibit 66, Witness Pierce, received in evidence.)

2330 By Mr. BEROL:

Q. Now, Mr. Pierce, on page 2 it states as follows: "It was becoming more evident each year that by far the largest percent of our tonnage moved from the north to southern Oregon points; in fact, about 80 percent of the total tonnage handled was southbound, this leaving only 20 percent of total for return haul. This situation required the securing of additional tonnage moving north-bound in order to make possible a more balanced operation, if we expected to continue on a profitable basis."

I will ask you if you so testified at the time and place which I indicated?

A. I did.

Q. Now, you were present and listened to the testimony of the two applicants, and the applicants pending here of their officers?

A. I think so; most of the time.

Q. And particularly with respect to the applicant, the Oregon-Nevada-California Fast Freight, do you recall that the Witness Gritsch testified that out of the tonnage handled on the interchange operation, approximately 80 percent was originated by the applicant, Oregon-California-Nevada Fast Freight, and only approximately 20 percent was originated by the applicant, Consolidated, and in turn turned over to the Oregon-Nevada-California Fast Freight? That is substantially correct; is it not?

2331 A. That is my understanding.

Q. To that extent, the applicant, the Oregon-Nevada-California Fast Freight today finds itself in exactly the same position as you did in 1937 when you were prosecuting your application for an extension; does it not?

Mr. IVERS. Objected to on the ground that it is incompetent, irrelevant, and immaterial. It has nothing to do with the question of public convenience and necessity.

Mr. BEROL. Well, I might say in that connection that I am not attempting to prove public convenience and necessity by this witness.

I am not expecting that the Commission is going to determine that public convenience and necessity does or does not exist by whatever testimony the Witness Pierce is going to give.

Chairman TERRIL. Mr. Berol, the Board ruled on the previous—the objection will be overruled. You may have an exception.

Mr. BEROL. Thank you very much.

By Mr. BEROL:

Q. Do you remember the question, Mr. Pierce?

A. Yes; I remember the question.

Q. What is your answer?

A. They find themselves—rather, your client finds themselves in a similar position so far as their operation is concerned,
2332 and it is possible that by the extension of their operations north of Medford that that situation could become worse instead of better by the extension to the northwestern points.

Q. Did your position become worse?

A. For a time it was substantially improved and for a period of time it did become worse on the California operation, yes.

Q. Now, when was it substantially better with respect to your own operations, and when did it become worse?

A. Up until such time we increased our California—our California volume increased to such an extent that it threw our operations out of balance. In other words, we were unable to secure sufficient volume of traffic moving from Oregon points to California points.

Q. Now, when did you become aware of that condition?

A. I don't recall any particular date.

Q. Approximately?

A. I couldn't tell you any particular date. That happened some time before we discontinued our operations. I don't remember just exactly, that is, I mean discontinued the daily operations.

Q. Now, will you explain to me why, in view of the fact you continued after the Joint Board recommended the denial of your application, to prosecute your application; why you actually
2333 after the action of Division 5 recommended operation to California?

A. It is necessary that we have some connections. We thought we were entitled to those rights, and had we had, as originally testified to in the proceeding at Medford, a reliable connection, we would have preferred to have made that connection. We had no choice, and we had to have connection or work with another carrier, your client, who was working with the Consol-

idated Freight Lines, and for reasons of their own were unable to transfer any north-bound tonnage to us.

Q. Now, you have stated you actually commenced daily operations on or about June 24 of this year?

A. That is true.

Q. Do I also further correctly understand your testimony that, except for these two applications pending here now, you would not have commenced daily operations at that time?

A. I would have preferred to have waited and been certain before making the necessary investment in additional equipment on account of the delay—the Commission's delay in taking that final action in our case. I thought it was necessary for us to protect our interests by establishing our daily operations.

Q. Now, how many pieces of additional equipment did you actually purchase?

A. We have purchased for this operation two additional units and leased two units.

2334 Q. And those two that you leased were from the Valley Express Company?

A. That is true.

Q. Now, are you in a position to tell me, Mr. Pierce, that you definitely will continue your daily operations, based upon your experience in the last three months?

A. Yes, sir.

Q. Is it your view that is going to be to the advantage of your operation as a whole to continue the daily operation to and from points in California?

A. That will depend somewhat on the level of rates.

Q. Assuming that the level of rates will remain on the approximate level that they are today?

A. It will be—if we can keep the operation somewhat in balance, it will work out to our advantage.

Q. Assuming that the level of rates may decrease, what will then be your position with respect to continuing daily operations?

A. If the level of rates decreases in California, likewise decreases in Oregon, on account of the relationship that is always maintained, it is difficult to say what the answer would be for the operation as a whole.

Q. You are not in a position to state at this time?

A. I am in a position to state that if the rates are reduced to any great extent, more than what they are at the present

2335 time, it is going to be very, very difficult to continue operations, the operation as a whole; not necessarily the California operation.

Q. As a matter of fact, in the event of any such reductions you are not prepared to say at this time if you will definitely continue your daily operations to and from California?

A. It is going to—it would impair our service if the rates were reduced. If the rates were reduced it will impair our ability to continue to serve, and it is difficult to say what the final outcome will be if the tonnage is divided further by additional carriers in the field.

Q. Now, Mr. Pierce, you stated that the rates in Oregon—and by "Oregon" I mean that portion between Medford and Portland—will follow any reductions in rates in California.

Is it not true that at the present time they are out of line and not in adjustment?

A. That is true, somewhat, on class rates. The class rates are out of balance, but they should not be——

Q. I am just asking as to what the facts are.

A. They are not in balance.

Q. And how long has that been true?

A. For several months. I think——

Q. Have you finished your statement?

A. Yes.

Q. I was very much interested, Mr. Pierce, in your com-
2336 putations regarding our expectancy of making or losing money on the proposed operation if it is commenced.

Did I understand your statement correctly that if we move through traffic on our own equipment between San Francisco and Portland we will lose $151.30 per trip?

A. Correct.

Q. Now, I want to do some rapid calculation so as to see just where we are going.

Assuming that an operation conducted on the daily basis results in 26 trips per month—that is substantially correct; is it not?

A. Daily operations?

Q. Yes.

A. It would be approximately 26 daily trips per month.

Q. And according to my hasty calculation if we operated once a day between San Francisco and Portland we would lose $3,933.80.

Now, whether my calculation is correct or not, you may accept that as a true figure for the moment.

Then do I understand further that if we operated twice a day we would lose twice that amount, or $7,867.60 per month?

A. No. That is on the total tonnage, this $150 figure, the total of 60 tons.

Q. Well, my records show that your testimony indicated a loss of $151.30 per trip.

A. Well, I have it down here per day.

2337 Q. Per day. Now, is that per day per trip or per day, irrespective as to the number of trips that are made?

A. No. It would vary depending on the number of trips that you would make.

Q. That is what I want to know. Now, suppose we make one trip per day, the loss would be approximately $3,900 per month; is that right?

A. Well, now, this computation that I made here, Mr. Berol, was based on five round trips between Medford and Portland.

Q. Daily?

A. Yes; 5 round trips which would take——

Q. Now, you made several computations, Mr. Pierce, as my notes indicate, and if I am in error, please correct me.

My notes indicate that first you made a computation as to round trips between San Francisco and Portland; secondly, you made a computation as between San Francisco and Marshfield; third, you made a computation as to handling traffic between San Francisco and Medford; and, fourth, you made a computation as to handling traffic between Medford and Portland.

Now, is that the method that you used?

A. Well, you are not entirely correct, Mr. Berol.

Q. Well, what I want is——

A. I will have to go over this to clarify it.

Q. I want the facts. If I am not correct, I wish you would correct me.

2338 A. Do you want it for Consolidated operations or just the Oregon-California-Nevada Fast Freight?

Q. I am just interested in Oregon-California-Nevada Fast Freight, no matter how much money Consolidated might lose. That is their lookout.

A. The total tonnage north-bound, according to Consolidated's exhibit, which coincides very closely to yours, amounts to 43½ ton; the south-bound movement 16½ ton, making a total of 60 ton moving in both directions, allowing a 9-ton load on each of the O. C.—Oregon-California-Nevada Fast Freight semis—it would require 5 semis or 6-wheel trucks—it is immaterial to handle the 43½ ton north-bound, and 16½ ton south-bound wouldn't have any effect on the amount of equipment that would be required. Those 5 round trips amount to, in round figures, 3,000 miles.

Q. Now, you just give me your conclusions—the record already shows as to how you arrived at it—you give me your conclusions as to losses.

A. For that day's business those losses would be $150 per day, in the manner in which I presented the figures.

Q. So then, based upon that, our losses would be $3,900 a month?

A. Yes.

Q. Now, I believe you indicated that insofar as the service to and from Marshfield is concerned, your loss would be
2339 $250.75 per trip or per day?

A. I wasn't compiling those figures for your operation, though I guess they would apply equally as well. I was doing it for the purpose of Consolidated's.

Q. Well, you recall I asked yesterday that I be advised as to when your computations began to apply to our company, and Mr. Ellis called my attention to the fact that the figures that we are now talking about were applicable to the Oregon-Nevada-California Fast Freight.

Now, if they are not applicable, Mr. Pierce, I shall not continue this line of examination.

A. I will give you the figures I have here. Marshfield southbound would be 1¾ tons, north-bound 1 ton, or a total of 2¾ ton.

Q. Now, you just give me your conclusions. The record already shows how you arrived at it. I do not want to take too much time now.

A. The conclusion on that one round trip, based on Consolidated's schedule, not on O. C.'s, was $250.75.

Q. Well, have you an opinion as to whether O. N. C. would make or lose money on that schedule?

A. They would be in an entirely different position than Consolidated Freight Lines because of their operation in southern Oregon.

Q. Would you concede that the Oregon-Nevada-Califor-
2340 nia Fast Freight would make money on its Marshfield operation?

A. No, I wouldn't concede that they would make money, but they wouldn't lose any such figure because they would handle the operation in a different manner.

Q. Would they lose any money?

A. In figuring this 43½ ton north-bound a few moments ago I included the Marshfield tonnage on that computation.

Q. Well——

A. I made no separation.

2341 Q. I believe your figure of $151.30 applied only to the operations between San Francisco and Portland, not to Marshfield; is that right?

A. Well, I took the total tonnage as far as the Oregon-Nevada-California Fast Freight was concerned north of Portland, including the Marshfield tonnage.

Q. Now, what I want to know is: Does this assumed loss of $151.30 include or does it not include the operations to and from Marshfield?

A. It includes Marshfield.

Q. It does. Now, let me ask you, Mr. Pierce: The Oregon-Nevada-California Fast Freight is a competitor of yours; is it not?

A. Yes, sir.

Q. Fairly keen competition?

A. Yes, sir.

Q. Now, if they commenced this operation, according to your views, they would lose approximately $4,000 a month and they would soon go broke under that kind of operation; would they not?

A. If they kept it up indefinitely and had no source of securing monies from elsewhere, why, they would probably be very badly embarrassed.

Q. Would it not, under those circumstances, be to your advantage to encourage the operation rather than discourage it?

2342 A. It might be.

Q. Do you want to change your position, Mr. Pierce, and want to withdraw your protest?

A. If you will withdraw your application.

Q. If I thought your figures were right, I would.

Now, you also offered some testimony, as my notes indicate, that one carrier handling all the traffic between San Francisco and Medford will lose approximately $72.40 per day. Is that right?

A. That was based on Consolidated's extension into San Francisco, not yours.

Q. In other words, that estimate does not apply to the Oregon-California-Nevada Fast Freight?

A. No. That is true, it does not apply.

Q. Now, will you tell me why—well, in view of your anxiety to tell me, Mr. Pierce, maybe I will invite it.

Now, my question was going to be: That if you testified that if Consolidated handled all the traffic between San Francisco and Medford, they would lose $72.40 per day, why does not that same loss apply to our company? Are we more efficient operators?

A. If you were only hauling traffic one way, or substantially so, as would be the case with Consolidated, you would be in the same position. But you are not in that position on account of

2343 serving Southern Oregon and having a backhaul from south-

ern Oregon, Klamath Falls, Medford, and northern California. You are in an entirely different position.

Consolidated is in an entirely different position than your company in southern Oregon. In fact, it is an ideal situation from a profitable operation standpoint, in my opinion.

Q. Now, then, you did indicate that if we handled all the tonnage between Medford and Portland, we would lose $150 per trip?

A. Correct.

Q. Did you mean per trip or per day?

A. I mean per day. Pardon me. That is based on this amount of tonnage.

Q. Now, based upon the amount of tonnage that we now originate in the San Francisco area, is it your position that if we took that all the way through to Portland, we would lose $150 per day?

A. If you were to divide your operations at Medford—just take the extension into consideration, Medford and Portland—that would be true. I don't know what your profits or losses are for the portion between Medford and San Francisco.

Q. Now, we cannot consider fairly, Mr. Pierce, just a portion of the traffic that might move between Portland and Medford if we are going to consider as to whether we are going to lose or make money on our extension.

2344 We fairly have to consider all of the traffic that we handle between the San Francisco and Portland area; do we not?

A. Well, as I mentioned a moment ago, if you were handling this tonnage as Consolidated would be in one case, substantially one-way traffic, you would be in the same position and would likewise lose money. But you are not in that position. Consequently your losses—you are not going to be in the position that you would lose anywhere near what the Consolidated Freight Lines would.

Q. Assuming, Mr. Pierce, that our application were granted, have you made any computations based upon the record that we are now originating according to your figures, 43½ tons a day north-bound; have you made any computations indicating as to what, if any, portion of that traffic we would retain and also indicating any portion of traffic that we would haul south-bound, and based upon those computations have you made any estimates as to whether for the entire operation between San Francisco and Portland we would make or lose money?

A. I thought the forepart of your question went to the question of traffic. Did I misunderstand your question?

Q. I will reframe it to make sure you understant it.

Based upon your understanding of the traffic that we are now originating in the Bay area, have you made any computations

based upon estimates that in the event this application were granted, as to how much tonnage we would handle north-bound and how much tonnage we would handle south-bound in a
2345 through operation between the Bay area and Portland?

A. I haven't any computations, but I have a pretty good idea, an idea how it would work out.

Q. Now, do you not have to make computations of that kind in order to arrive at a fair computation as to whether we are likely to make or lose money on the operation?

A. Of course, you understand that these figures are based on the exhibits. Now, it is my opinion——

Q. I do not know what those figures are based upon, Mr. Pierce. I am now asking you as to whether you had made certain computations that I asked for. That can be answered "Yes" or "No."

A. I haven't made any computations as far as the amount of tonnage that you would retain and the amount of tonnage that Consolidated would retain, if that is what you want to know. But I have an opinion as to what the outcome will be.

Q. You mean as to how the traffic will be distributed?

A. Yes.

Q. In the event both applications are granted?

A. Yes.

Q. Well, suppose you tell me?

A. It is our experience that the consignees control about 65 per cent of the traffic. They pay the transportation charges, and they have the right to route the freight as they choose.

Now, with Consolidated's position in the northwest, at
2346 least until such time as your company, assuming your application is granted, become thoroughly acquainted over a period of time, it would be a safe estimate to say that 65 per cent of the north-bound tonnage would be controlled by Consolidated Freight Lines.

Q. Well, you are more optimistic than Mr. James was, and I did not know anybody was.

How much of the south-bound tonnage would you say would be controlled by the Oregon-Nevada-California Fast Freight?

A. That is a different type of traffic, and I would say that your chances would be at least 50-50 on that on account of your brokers being located in San Francisco.

Q. Now, Mr. Pierce, let me make sure I understand your position.

You understand that the Oregon-Nevada-California Fast Freight has been maintaining their home office and terminal in San Francisco for a period of over ten years?

A. Yes, sir.

Q. Now, do you understand further that according to the testimony in this record they originate betwen 42 and 60 tons a day moving north-bound; do you not?

A. Yes, sir.

Q. Now, is it your position that 65 percent of that tonnage would go to Consolidated who maintain their head office in Portland if both applications were granted, authorizing the applicants to run through operations?

2347 A. Let me explain it a little differently.

Q. I am just asking if that is your position. You can explain it later.

A. That is my position. And I would like to be permitted to explain that Consolidated, on account of the consignees controlling the routing are—or rather, are responsible for your company receiving a large portion of the traffic that you state your company is originating in this territory on account of the solicitation they put forth in the northwest.

Now, they either have to request routings, Consolidated or O. C., and undoubtedly it is O. C. That picture will change if the applications were granted.

Q. Now, I want to test that theory, Mr. Pierce.

You have been fairly established in Portland for years; have you not?

A. Yes, sir.

Q. Now, I believe your testimony was that at the present time you are enjoying approximately nine tons of freight north-bound daily; is that right?

A. Yes.

Q. And out of that, some four or five tons are tendered to you by the Valley Express Company as an interline connection; is that correct?

A. Approximately so.

Q. So that you are receiving, insofar as San Francisco

2348 shippers are concerned, approximately only five tons per day?

A. That is true.

Q. Now, tell me why it is that if the Portland consignees had so much to do with the routing of the freight, you are not able to increase and have not been able in a period of four months your daily traffic more than five tons per day?

A. It has only been a short time. It has only been approximately two months, Mr. Berol.

Q. Well, I thought that from June 24 until October 20 was approximately four months.

A. You are correct.

Q. Can you explain the answer to that riddle to me? I cannot understand it?

A. Well, as far as Portland is concerned——

Mr. BEROL. Read that question, please.

(The question referred to was read by the reporter.)

The WITNESS. The only thing—the only reason I can give to account for that situation is the fact that Consolidated Freight Lines maintain a very vigorous solicitation force, and the service that they are now receiving is apparently satisfactory.

Q. Do you maintain any solicitors in Portland?

A. Yes.

Q. How many?

2349 A. Two.

Q. Would you say that the effectiveness of the Consolidated's solicitation in Portland is greater than your own?

A. By far. They maintain about five solicitors.

Q. Now, I think you stated in your testimony, Mr. Pierce, that the Oregon-Nevada-California Fast Freight and Consolidated, in spite of a joint operation, have not been at a disadvantage with you; is that substantially right?

A. If they would get together and arrange to interchange equipment; that is true.

Q. And I think you gave as a reason for that the fact that the Consolidated's home offices with all their friends are in Portland, and O. N. C.'s home office and all their friends were in San Francisco?

A. That is the one reason.

Q. In San Francisco you do not maintain any solicitors directly?

A. No.

Q. You have your solicitation in San Francisco done by the Valley Express Company?

A. That is correct.

Q. Do you know of any transportation agency, of any common carrier by motor vehicle that is more strongly entrenched in San Francisco than Valley Express Company?

A. I would say they rate among the best.

2350 Q. They will rate alongside of the Oregon-Nevada-California Fast Freight?

A. I would say so; yes.

Q. In view of that fact and in view of the fact that the Valley Express Company is your agent here and does your solicitation, and in view of the fact that you feel that factor is sufficient to offset other factors, will you explain to me why, in view of that, you have not been originating more traffic for the north than you have?

A. I think I covered that, Mr. Berol. Consolidated Freight Lines and your company have been advertising to the shippers

through service, at least through equipment, and for the most part they have been, so far as I know, very well satisfied with the service you have been rendering.

Q. Now, furthermore, insofar as the advantage that Oregon-Nevada-California Fast Freight may have in operating a joint operation with Consolidated over your direct service, because of its home office here, is not that advantage offset by the fact that the Valley Express Company is your representative here?

A. Well, not entirely so, Mr. Berol, for the reason that the direct representation by our own employees has some advantage over that of an agent representation.

Q. Now, do you expect to establish any solicitation in San Francisco other than Valley Express Company?

2351. A. Yes.

Q. Can you tell me as to when you will do that?

A. No.

Q. You have not any definite plans under way for that at the present time?

A. I have been discussing it, but no definite plans have been reached.

Q. Are you in a position to tell me as to whether you have any plans for the establishment of any facilities in the Bay area other than what you have here at the present time?

A. What do you mean? As to pick-up trucks?

Q. Terminal facilities, pick-up, and delivery or otherwise.

A. No. We propose at least at the present time to continue with the Valley Express acting as our agent on the pick-up and deliveries.

Q. Now, I think you indicated, Mr. Pierce, in your testimony, that if either of these applications is granted, you fear that it may impair your service?

A. Yes; I do.

Q. Now, for the first six months——

A. May I explain my answer?

Q. Oh, yes; certainly.

A. For the reason that there is such a division of tonnage among the present carriers, any further division is going to make it more difficult than it is at the present time.

2352 And if these applications were granted, Oregon-California-Nevada Fast Freight and Consolidated, both of the applicants are going to be forced to take every means possible to secure equipment—or, secure sufficient tonnage to load their units in order to maintain the schedules which they propose, and that competition is going to be very, very keen. It can't help but be. Even the tonnage, the slight amount of tonnage that we have now,

is going to be difficult to improve upon, and we don't have enough now to warrant profitable operation on the southern end.

Q. Now, according to your Exhibit No. 40, for the first six months of 1940 of a total revenue of $128,738.89, $3,726.05 represents the California traffic. That is right; is it not?

A. Which exhibit?

Q. 40.

A. And for what period?

Q. Six months ended June 30, 1940.

A. What was the figure you mentioned?

Q. Well, I read the figures from the exhibit, $128,000 compared with $3,000, in rough figures.

A. Comparing Oregon revenue with California revenue?

Q. Yes.

A. That is true.

Q. In other words, only approximately two or two and one-half percent of the total?

A. A very small portion.

2353 Q. And the——

A. However——

Q. Have you finished?

A. No.

Q. Go ahead.

A. Don't forget, Mr. Berol, that in that Oregon figure is the interstate revenue that we receive from California, and this figure of $3.726 is only the portion from the California state line to San Francisco.

Q. Well, it would not be more than double, would it, if you included the other?

A. No; I don't assume so.

Q. Well, suppose it were $5,000 or $6,000 worth out of the total, suppose it runs four percent or five percent, then the only extent to which your service is going to be impaired is as to four or five percent of the gross revenue; is that not right?

A. It would—I don't know what your figures are. I assume they are correct. But you must bear in mind the net result for the six months down there, and if our service is going to be impaired a great deal more, we are going to have more difficult problems continuing than what we have had in the past.

Q. All right. Now, Mr. Pierce, were you present yesterday when the Witness Hendrickson testified on behalf of the Los Angeles-Seattle Express Company?

2354 A. I was in the room.

Q. Do you recall the testimony developed through the Witness Hendrickson that the traffic of the Los Angeles-Seattle Express Company at the present time in and out of the Bay area

in revenue was some 18 percent for a particular month that I selected?

A. I can't say that I do. I wasn't paying any particular attention to his testimony.

Q. Now, let me ask you another question:

I believe I understood you to say today in response to a question put on cross-examination that two years ago the Los Angeles-Seattle Express Company did not even have a solicitor in San Francisco. Was that your testimony?

A. I didn't know of them having a solicitor.

Q. If they would have had one here, would you have known about it?

A. Not necessarily.

Q. Now, will you explain to me why it is that the Los Angeles-Seattle Express Company operating primarily between the terminal points of Los Angeles and Seattle is able to develop in and out of the San Francisco Bay area—take for a sample for one month—approximately 18 percent of its gross revenue; whereas, you who terminal in San Francisco develop only four or five percent of your gross revenue as consisting of traffic in and out of the Bay area?

2355 A. I don't know, unless it would be because they have been making an effort over a longer period of time to secure traffic than what we have.

Q. Now, is it not a fact, Mr. Pierce, that you have never been very much interested in this traffic in and out of the Bay area until these two applications were filed that came on for hearing?

A. No; that is not true at all, Mr. Berol, because the Commission has not expedited the settlement of the operating rights of existing carriers on the coast, and especially our operating rights the reason. And we didn't consider it good business to continue or proceed to make the necessary investment until our operating rights became final. However, as long as your companies filed the applications are you have, we consider it necessary to protect our operating rights to take that chance, to go ahead and make the investment.

Q. Now, Mr. Pierce, I believe you commented in your direct testimony about the difficulties between the Oregon-Nevada-California Fast Freight and the Consolidated as joint carriers, and to summarize your testimony briefly, you did not see why all those difficulties should occur between joint operations.

Is that substantially in brief the essence of your testimony in regard to this joint line operation?

A. You mean in this case?

Q. Yes; between these two carriers that are applicants here.

2356 A. Now, I can't recall for sure whether I did or not.

Q. Now, let me ask you particularly: There was some testimony in the record on direct by the applicants as to the difficulty in conducting a joint line operation in educating and getting the employees to properly function and cooperate together.

Now, did you comment in your direct testimony regarding that?

A. No.

Q. Have you any comments to make regarding that?

A. Yes; I will be glad to.

Q. Will you do so?

A. It is my opinion that the reflection of the management—of the conduct of the employees, rather—reflects the cooperation that exists between the management. We have found no difficulty in cooperating, having our employees cooperate, with other carriers in interchanging freight and see no need for any such condition existing. I thing it is entirely up to the management.

Q. Is it your position, Mr. Pierce, that you can control your employees so that they handle matters properly in connection with joint line interchange of traffic?

A. Very much so; yes.

Chairman TERRIL. We will take a brief recess, gentlemen.

(A short recess was taken.)

Mr. BEROL. I wonder, Mr. Reporter, if you will read the
2357 last question and answer for me.

(The question and answer referred to were read by the Reporter.)

By Mr. BEROL:

Q. Mr. Pierce, is the Smart's Auto Freight Company one of your connecting carriers?

A. Yes.

Q. I show you a freight bill on the stationery of Smart's Auto Freight Company, dated July 15, shipment originating at Tacoma, Washington, destined to San Francisco, California, routed via Pierce to Medford and via Oregon-California-Nevada Fast Freight to San Francisco, California, and I will ask you as to whether your employees ever turned that shipment over to the Oregon-Nevada Fast Freight.

A. I wouldn't have any way of knowing definitely whether they did or whether they didn't However, it could have been handled through by your line.

Q. Now, I will——

A. And I would like—are you through with this?

Q. Well, this particular one; yes.

A. There are certain—well, skip it.

Q. Now, Mr. Pierce, I have here a batch of freight bills similarly on the billing of the Smart's Auto Freight. They are all dated for the period from July 14, 1940, to August 21, 1940, and they are 15 in number, and if I ask you the same question with respect to each of those freight bills, would your answer
2358 be the same?

A. I can't tell until I check them.

Q. Now, Mr. Pierce, assuming that each and every one of those freight bills originated over the line of the Smart's Auto Freight Company were referred to you at Portland and each of them was routed via your line to Medford and beyond via the Oregon-Nevada-California Fast Freight;

Assuming further that none one of those shipments was turned over to the Oregon-Nevada-California Fast Freight, would you still say that you have good control over your employees in the matter of interchange arrangements with another carrier?

A. My answer would be that I still have control over my employees, and I would like to make an explanation in regard to these bills, if you would permit me to do so.

Q. I am very much interested. Please do so.

A. We have found upon investigation with the shippers, with some of the shippers covered by these bills, at least one of them, that no such routing was shown on the bill of lading. That was put on—placed on the bill of lading—on the freight bill by Smart's Auto Freight, and we checked—we have had correspondence with certain shippers to determine what routing was shown on the bill of lading, and we were advised by the shipper that no such routing was shown on their bill of lading, and it was agreeable with
2359 them to handle these—a portion of these shipments—I won't say all—through to destination, and some of them the permission was secured before the shipment moved through to destination.

Q. Is it your testimony that with respect to any of those shipments indicated in the various freight bills about which I have questioned you that that condition applied?

A. I think so.

Q. Which one?

A. I am not certain, but I think that is the one, at least one of them.

Q. In other words, the shipment dated July 15 from Tacoma, Washington, to San Francisco?

A. I might explain this way: I am not sure of the shipper's name, of the consignee, but I know—I say, "I know,"—I know from the information given to me by my traffic department that they checked with the shipper or consignee, and they advised it

would be agreeable for us to handle that—some of those shipments through to destination.

Q. Well, do I understand, Mr. Pierce, that insofar as the directed routings on these bills are concerned, and insofar as they were not followed, that the fault for their not being followed was not that of your employees, but of your own?

A. No; I wouldn't say that.

Q. You wouldn't say that?

A. It is my position, however, that a connecting carrier
2360 doesn't necessarily have the right to route other than what is shown on the bill of lading.

Q. Is it your view that when shipments are tendered to an originating carrier, unrouted as to beyond carriers, that that originating carrier does not have the right to designate his own routing?

A. In a case of that kind, I think he would.

Q. Now, is it your view, Mr. Pierce, that you should not honor the routings indicated by your originating carriers?

A. Where routings are not shown on the bills of lading you mean?

Q. Where routings are shown on the freight bills tendered to you?

A. I think the routing should be adhered to, unless permission is secured from the shipper or consignee to the contrary.

Q. Did you advise Smart's that you were not honoring the routing as Smart's Auto Freight indicated to you?

A. I don't know.

Q. Now, in connection with any shipments that were tendered to you by an originating carrier, is it not true that the documents that you see are the originating carrier's freight bill and not the shipper's bill of lading?

A. That is true.

Q. Then if you see only the originating carrier's freight bill and not the original bill of lading, how can you tell as to
2361 what kind of routing is prescribed in the bill of lading?

A. We can't tell. However, it is my understanding our traffic department on some of the shipments checked with the consignee or shipper. I don't know which.

Q. Now, referring again to Exhibit No. 66, Mr. Pierce, I was interested in the testimony which you gave in your own proceeding, being listed on Exhibit No. 66 at the bottom of Page 4 and at the top of Page 5, reading as follows:

"* * * The Pierce Auto Freight Line's operation makes possible the transferring of freight destined to and from points in Oregon and California, beyond the territory served directly by our company, without the necessity of connecting carriers transferring

to a competitor. By this is meant, that if a carrier operating between Portland Seattle, who is directly in competition with Consolidated Freight Lines, receives a shipment of merchandise at Seattle destined to Medford. and is unable to transfer this shipment at Portland to such a carrier as the Pierce Auto Freight Lines, instead, is required to transfer to the Consolidated Freight Lines, his competitor, such a procedure results in a very unsatisfactory condition."

Now, was that your testimony at that time and place, Mr. Pierce?

A. Yes, sir.

Q. You still subscribe to it?

2362 A. Yes, sir.

Q. Did you hear the testimony of the Witness Lee, testifying on behalf of Lee and Estes in this case?

A. What witness?

Q. Lee.

A. Of Lee and Estes?

Q. Yes.

A. I believe I did.

Q. Did you hear the testimony of the witness Smart testifying on behalf of Smart's Auto Freight in this case?

A. I think so.

Q. Now, was not the testimony of both those witnesses——

Mr. ELLIS. If the Examiner please——

Mr. BEROL. The question is preliminary.

Mr. ELLIS. I think one reason this examination is so prolonged lies largely in the fact that this witness is being examined on testimony of a dozen other witnesses.

Mr. BEROL. This is the first time I have asked this witness as to any testimony by any other witness, and the only reason I am asking it is I want to test as to whether his views to which he testified before this Commission in connection with his own application are still views to which he subscribes now.

Mr. ELLIS. He says they are.

Chairman TERRIL. Let's have the question.

Will you complete your question, Mr. Berol?

2363 Mr. BEROL. Will I repeat the question?

Chairman TERRIL. No. Will you complete your question.

Mr. BEROL. Yes.

Give me the first few lines, Mr. Reporter.

(The question referred to was read by the Reporter.)

By Mr. BEROL:

Q. To the effect that they now find themselves in exactly the same position that you testified about a beyond carrier beyond Seattle, the testimony of which I just read?

A. Not to my recollection; no.

Q. Now, let me ask you, at the present time you are the underlying carrier for the Valley Express Company between San Francisco and Portland; that is true, is it not?

A. Yes, sir.

Q. The Pacific Highway Transport is the underlying carrier between Portland and Seattle; that is right, is it not?

A. Yes, sir.

Q. Both of you being underlying carriers for the Valley Express Company; you both operate close together under joint arrangements; do you not?

A. I would say we operate fairly closely together.

Q. As between the Pacific Highway Transport Company and the other carriers operating between Portland and Seattle, is it not true that you have been giving the preference to the Pacific Highway Transport Company?

A. On Valley Express tonnage we are required to be-
2364 cause they are the underlying carriers. On Pierce traffic that is not true and we have divided the Pierce traffic as best we could among the various carriers beyond Portland, trying to satisfy them all and having such a small tonnage to do it with, they naturally were not satisfied.

Q. Let me ask you—and I am going to shorten this examination—if you disagree with the position taken by both of those witnesses, that, because on the one hand Consolidated itself operates between Seattle and Portland and, on the other hand, the Pacific Highway Transport Company, their competitor, also operates between Seattle and Portland, and further, because of the fact that the Pacific Highway Transport Company connects with you, and you and Consolidated being the only available connections at Portland, outside of the rail lines and their affiliates, those two carriers consider themselves at a disadvantage.

Now, would you agree or disagree with that?

A. I disagree with you very much.

Q. I am not asking you whether you disagree with me. I am asking you whether you disagree with them.

A. Yes; I disagree with them. In fact, we don't receive any tonnage to speak of from Pacific Highway Transport going to Los Angeles points. I think they turn it over to some other car-
riers, and they are not put to any disadvantage as far as
2365 Pierce traffic is concerned. It is only insofar as the Valley traffic is concerned in which we are required, according to the Valley Express agreement, to transfer to the Valley Express carrier.

Q. Now, is not all of the billing out of the Bay area on the billing of the Valley Express Company?

A. No, sir.

Q. Is not all of the billing to Portland or points north of Portland out of the Bay area on the billing of the Valley Express Company?

A. No, sir.

Q. Were you present when the Witness Frasher testified?

A. Yes, sir.

Q. Did he not so testify?

A. I don't know whether he did or not.

Q. You do not know whether he did or not?

A. If he did, so far as Pierce billing, he is mistaken.

Q. What are the facts as to what portion of the traffic originating in San Francisco was billed on the Pierce Freight Lines and what portion was billed on the Valley Express Company?

A. Whatever is tendered to us on Valley Express—tendered here in San Francisco to the Valley Express Company as our agent, with Valley Express routing, with Valley Express billing, it moves on the Valley Express billing. If it is Pierce, it moves on the Pierce billing regardless of the destination.

Q. Now, will you refer to Exhibit No. 41, Mr. Pierce?

2366 On Exhibit No. 41 you indicate that for the month of January 1940, your average rate per ton was $11.20; that for March of 1940 your average rate per ton was $9.52. Yet, in January, under the higher rated tonnage, you showed a net profit of only $26——

Chairman TERRIL. Wait a minute. You are getting ahead of me.

What was your last date?

Mr. BEROL. January of 1940.

By Mr. BEROL:

Q. You showed a net profit of only $26.11, and in March of 1940 you showed a net profit of $989.21.

Will you explain to me why under the lower rated tonnage you make more money?

A. There is lots of factors that enter into it when you are keeping your records on a monthly basis, Mr. Berol.

As an example, your maintenance. You may overhaul some of your equipment in one month and may miss it in the next month or two, and then there is the fact—another factor such as the class of tonnage which you would handle. For instance, you might handle a greater volume of lower classed merchandise which, in one month, as compared with another, would make a difference in the net result. You might have had some attorneys' fees in one of those months likewise.

Q. Well, I am always highly in favor of that, Mr. Pierce.

These proceedings——

2367 Chairman TERRIL. Was not that the month that you employed Mr. Berol, Mr. Pierce?

The WITNESS. I think it was.

Mr. BEROL. I wouldn't be surprised.

The WITNESS. Yes; that was the month.

Mr. BEROL. It is a good thing you did not employ me the succeeding month, or it would have wiped out all of the profits.

The WITNESS. If that was the month—that was the month he went to Seattle as our representative.

By Mr. BEROL:

Q. Now, in other words, we are not to draw any necessary relationships between the average rate per ton and your profit and loss; are we?

A. Why, yes; of course. There is some variation depending on the class of tonnage you handle.

Q. You would not say that the two would necessarily follow?

A. Well, they could be——

Q. As your rate per ton goes up, the profits go up, and as the rate per ton goes down, the profit goes down?

A. Ordinarily it should be that way.

Q. But you are not contending that that necessarily follows in your experience, are you?

A. That is the ordinary thing to expect. However, if you do handle a large volume of low-class traffic, that picture can change.

Q. Now, would you refer to your Exhibit No. 46?

2368 The purpose of that exhibit——

A. Wait a minute until I find it.

All right.

Q. Now, I take it that the purpose of that exhibit is to demonstrate the applicant cannot make the schedule of 25 hours between Portland and San Francisco?

A. The purpose of this exhibit is to show what the Pierce Auto Freight Lines are doing—were doing for this particular period of time.

Q. Now, the item of total elapsed time that you show in your summary, that is not to be given any consideration in determining what the applicant can do, is it, Mr. Pierce?

A. It is, to a certain extent. The lost time at division points, namely, Redding, Medford, and Roseburg, is not accounted for in the total operating time. And the difference between—may I proceed?

The difference between the column which shows total operating time and total elapsed time would have to take into consideration the time that is consumed at division points.

Other than that—just strike that "other than that."

Q. Now, there is a difference of ten hours between the total operating time and the total elapsed time.

Would that not be accounted for by the fact that the driver may have stopped some place to sleep, or tied the truck up for some reason?

2369 A. You will notice that that is a little higher than the most of the figures showing the total elapsed time. I would assume that in that particular case that there must have been some mechanical failure, possibly, at one of the division points that accounts for that.

Q. Now, let us take the total operating time of the first item, as long as we are on that, of 28 hours, 15 minutes.

Now, included in that, if I understand correctly, is the total loading and unloading time of one hour, 40 minutes?

A. That is true.

Q. Now, that hour and 40 minutes would not apply to a through operation between San Francisco and Portland; would it?

A. Do you mean not having any freight for any intermediate points?

Q. That is right.

A. If you want to stop at any point to load or unload, that is true.

Q. Therefore, your total operating time of 28 hours and 15 minutes would be reduced by that hour and 40 minutes, making it 26 hours and 35 minutes; is that correct?

A. That is approximately correct.

Q. Now, Mr. Pierce, based upon your own records—and in regard I might state that I have made some other computations for the first 17 or 18 days and they all appear to fall within the range of 24, 25, and 26 hours—in view of your experience in that regard, are you still going to seriously quarrel with the

2370 applicant's contention that he can make it in 25 hours safely?

A. Yes, indeed, because you are overlooking the lost time at division points, which is the greatest loss of time because those are not only division points for change of drivers, but also at points where there is freight handled and refueling, and other miscellaneous checking.

Q. Now, there are only three division points between San Francisco and Portland; are there not?

A. On this operation?

Q. Yes.

A. Yes.

Q. And your testimony was that 30 minutes was ample time for each division point?

A. No. That was for eating.

Q. Well, how much time should it take for a truck to arrive at a division point, for the old driver, or, the present driver to get off the truck, for the new driver to kick the tires and feel the chains and stroke the body and get on the truck and start driving?

A. Mr. Berol, I think I could answer your question——

Q. My last question goes only to the amount of time required in changing from one driver to another.

A. The change of drivers, if that is all there was to do, would no doubt average about 20 to 30 minutes per change.

Q. While that was taking place, could not the truck be
2371 refueled?

A. That would all depend on the circumstances and arrangements that you had.

Q. Suppose the arrangements were made that the equipment would be refueled at the same points where drivers were changed; could not the change of drivers and the refueling be done at the same time?

A. It would not be impossible.

Q. How much time would that take?

A. Refueling generally takes about 20 minutes on the average.

Q. So that would not 30 minutes still be ample time for change of drivers and refueling?

A. If you had someone else to do the refueling, it would be possible.

Q. Now, in addition to change of drivers and refueling, what other stops would there be outside of incidental stops for the drivers, which have already been taken into consideration; what other stops would there be in connection with a through operation between San Francisco and Portland?

A. You mention the change of drivers at division points, the time required for the drivers to eat, which would be an hour and a half on that schedule. You have mentioned fueling; that would probably require 40 minutes, or assuming that two fuelings were
required—that is what we generally do, and I think most of
2372 the operators do—then in addition to that I don't know what your practice is, but it is our practice to check our equipment, require our drivers to stop and check our equipment every 50 miles, or hour and a half's driving time in the interest of safety.

Now, you can overlook that if you want to, but from our experience we have avoided several accidents by following that procedure, and it also—you have stops where drivers get a cup of coffee, or incidental stops of that kind, which require possibly 10 or 15 minutes for each driver on each shift.

Q. Under the heading of "Incidental Stops"?

A. Yes.

Q. Even occasionally a pin-ball machine?

A. That is true.

Q. Let me ask you, Mr. Pierce: Is it your contention that the experience that you show for the month of July in operating time between Portland and San Francisco represents the maximum of efficiency attainable consistent with safety? Are you setting out your own record for that particular month as representing the maximum efficiency?

A. Off the record a minute.

Chairman TERRIL. Off the record.

(Discussion outside the record.)

Chairman TERRIL. On the record.

The WITNESS. As far as the driving time, or actual operating time, as shown on Exhibit 47, that is unusually good for
2373 this reason, Mr. Berol. Because our equipment was very light, our loads were small. Whenever you run light equipment, especially in the mountains, you can make much better time than you can when you are operating full units. And with a similar exhibit made up with loaded units, you would find considerable different operating time.

By Mr. BEROL:

Q. Well, Mr. Pierce, did you not tell me you were averaging 9 tons a day?

A. Not at the time this exhibit was made. It was about 7-ton, I believe, one way. And 7-ton is just a little more in weight than half a load.

Q. Do I understand correctly that you normally would carry only about 9-ton on a unit?

A. Not on a truck and trailer. That is on semis. We are not operating semis now.

Q. Do you operate any of these "Jeeps" that Mr. Frasher testified to?

A. Yes, sir. There is more space on these than there is on a truck and truck and trailer.

Q. Now, just one or two more questions.

Will you look at "Miss Roseburg," Exhibit No. 50?

A. I know what it looks like.

Q. What is the tare weight of the truck?

A. I do not know offhand. I know approximately.

Q. Can your approximate it? I do not mean to the
2374 pound; your best judgment.

A. It would be around 15,000 pounds, I believe; between 15 and 16.

Q. And if it is as much as 16,000 pounds, am I correct in assuming that in California you cannot carry more than a 10,000 pay load on it?

A. I think that would be approximately correct.

Q. Can you give me the approximate tare of the trailer?

A. I think around 10,000 pounds.

Q. The maximum carrying capacity in California is 34,000, including the tare?

A. Well, that is a six-wheel trailer. That weighs more than 10,000 pounds.

Q. What does that weigh?

A. I don't know offhand, Mr. Berol.

Q. Not at all?

A. Probably Mr. Gritsch could give you whatever he knows about what those six-wheel trailers weigh. I don't know.

Q. Now, on the date of October 25, 1939, you received a letter from W. G. Stone, the manager of the Transportation Department of the Sacramento Chamber of Commerce, he having testified here.

Do you recall that letter? Do you have it before you?

A. I don't have it before me, but I recall the letter.

Q. Did you have any correspondence with Mr. Stone subsequent to that time?

A. No.

2375 Q. Did you have any personal conversations with him subsequent to that time?

A. No.

Q. I notice in his letter he states:

"Under these circumstances we are just wondering what way your proposed service would be an improvement over that which we now enjoy by using your line between Portland and Medford and the Oregon-California Fast Freight between Medford and Sacramento."

So I take it that you never did, either by correspondence or by personal conversations, undertake to enlighten Mr. Stone as to which way your proposal at that time would assist him in his transportation problems?

A. No. We never replied to the letter.

Q. Do I understand that you put this letter into evidence for the purpose of showing that Mr. Stone was inconsistent in writing you as he did on October 25, and subsequently testifying in this proceeding?

A. You say "inconsistent"?

Q. Yes.

A. Yes; very definitely so.

Q. That was the purpose of the letter?

A. Yes, sir.

Q. That was the purpose of offering it in evidence?

A. Yes, sir.

2376 Q. Now, will you tell me, Mr. Pierce, if he invited you to explain how your proposed service at that time—and I understand at that time you were about to have your rehearing before the Commission on your extension application—and I am now asking you that if, as is indicated in his letter, he invited you to show him how your proposal would improve his service and you did not accept his invitation, and assuming, as he testified, that this applicant did explain to him how this proposal would improve his service, and based upon that explanation he testified, will you explain to me what there is inconsistent about Exhibit No. 51 in his testimony in this proceeding?

A. When we wrote Mr. Stone, all we asked for was information concerning industries in and near Sacramento.

We have had experience before in trying to secure secretaries of Chambers of Commerce as witnesses and have had sad experience.

We weren't interested in securing Chambers of Commerce. We have been advised that the shippers are the ones to appear rather than representatives of the Chamber of Commerce, and I didn't have in mind when we wrote him to appear in our behalf. All I was looking for or desiring to secure was this information concerning industries.

Q. Well, did I incorrectly understand, Mr. Pierce, in connection with your testimony when you offered Exhibit No. 51 to

2377 state that you had invited Mr. Stone to appear?

A. We didn't invite him to appear.

Q. You did not so testify?

A. No. If I did, I was mistaken.

Q. Now, if you did not invite him to appear, then will you tell me as to which way Exhibit 51 is inconsistent with his testimony in this proceeding?

Mr. IVERS. I am going to object to this. It is argumentative, and that is a conclusion that can be drawn by anybody that reads his testimony and the letter. It is prolonging this examination uselessly. The letter speaks for itself. The testimony speaks for itself.

Chairman TERRIL. I will agree with the latter portion of his statement, that it is prolonging the proceedings. But I think he is entitled to the question. The objection will be overruled.

By Mr. BEROL:

Q. Do you recall the question, Mr. Pierce?

A. Not exactly.

Mr. BEROL. Read it, Mr. Reporter, please.

(The question referred to was read by the Reporter.)

The WITNESS. He appeared here and testified that there was a very urgent need for service such as the applicant, Oregon-California-Nevada Fast Freight proposes, and he states very frankly:

" . . . our transportation requirements are taken care of
2378 very satisfactorily with your present arrangement in conjunction with Oregon-California-Nevada Fast Freight."

Mr. BEROL. All right. Now, just a few more questions regarding Exhibit 66, and we will be finished.

By Mr. BEROL:

Q. Will you turn to Page 2 of that exhibit? You state—have you that exhibit before you?

A. Yes; I have.

Q. Now, on Page 2, Exhibit No. 66, it attempts to set forth a portion of your testimony as follows:

"Our service has a distinct advantage to the shipping public over that of any other existing carrier operating daily between Oregon and California points for the reason that we are the only termini common carrier handling general merchandise over the entire route which we cover operating under one management."

I will ask you as to whether you so testified at the time and place indicated.

A. I did.

Q. Do you still subscribe to that testimony?

A. I think there are some advantages, but taking in consideration the other question, such as to whether you can make the operation profitable, the advantage of your joint service or interchange at Medford I think more than offsets what disadvantage there might be in not having the operation under one management.

Q. Now, Mr. Pierce, I am not now speaking, or were you
2379 at that time speaking of the advantage to the operator.

I am now speaking, as you at that time were speaking, of the advantage to the shipping public; and I will ask you if you have changed your mind since you so testified as to the advantages to the shipping public of a line under one management, as compared with a line under joint management.

A. According to the knowledge I had of the situation at that time, I believe that statement was entirely true.

However, I do believe that two operators properly coordinating their operations can practically, if not entirely, meet that situation.

Q. In other words, you still hold the same opinion that you did then, but not to the same degree. Is that what you are trying to tell me?

A. That is correct.

Q. Now, to the extent that you still hold the same opinion today, I will now ask you if you want to change any part of the testimony that you gave on direct today, when you were testifying about the two joint carriers being able to operate the same as a single line carrier if they were properly coordinated?

A. It would be the—so near the same as under one management, if they were properly coordinated, that it wouldn't be a great deal different, and I do not propose to change my testimony.

Mr. BEROL. I think that is all.

Chairman TERRIL. We will be at ease for a few minutes.

2380 (A short recess was taken.)

Chairman TERRIL. Let us proceed.

Redirect examination by Mr. ELLIS:

Q. Mr. Pierce, you were asked on cross-examination to explain your inability to, if I recall the questions correctly, develop more tonnage than you had for the California operation, and in connection with your explanation you answered concerning the strong solicitation program carried on by Consolidated Freightways in the Portland area.

I would like to ask you whether the situation in Portland as to solicitation is duplicated in any other sections in the Northwest and whether or not that affects the question you were discussing.

A. Yes; it is. They have a very efficient solicitation system all over the northwest, and it is—their operations result in very keen competition for other carriers who are in competition with them. On account of their moving the traffic for a greater distance, naturally they are more interested in securing that traffic than what the other operators are that operate beyond Portland.

Q. Mr. Berol asked you some questions concerning Exhibit 40 and the small amount of California revenue shown thereon.

I would like to ask you what your operations were during the first six months, so far as California was concerned during the first six months of 1940.

2381 A. They were weekly operations.

Q. Would that truly reflect your California revenues under the service conducted at the present time?

A. It would.

Q. What was your answer?

A. It would.

Q. You mean that your six months of 1940, the first six months, on weekly operation, would that correctly reflect what your California revenues now are under daily operation?

A. No. I misunderstood your question.

Q. Mr. Schafer asked you some questions concerning whether you had taken into account in your computations of operating

losses the possibility of Consolidated Freightways using the so-called "hot shot" schedules for the handling of local traffic to points in Oregon.

If, as suggested by Mr. Schafer, that practice is to be followed, what, in your opinion, would be the effect on their ability to maintain the through schedules?

A. It would delay their through schedules materially, and in the second place by loading their local freight for southern Oregon points, Medford and Grants Pass, on their through units, they would have to do so on the schedules as proposed on their through operations.

Those schedules leave Portland in the morning and not the evening, which would result in a 24-hour delay in delivery
2382 of freight to southern Oregon points. The freight would arrive in the evening, but it would be of no value as far as the merchants are concerned before the following morning.

Q. Considering questions asked by Mr. Berol relating to your own operations from San Francisco Bay to Portland and the time which you were able to make on those schedules, do you care to make any revision in your direct testimony as to whether the 25-hour schedule proposed by applicants is safe or can be conducted safely, or is that your opinion?

A. That is still my opinion.

Mr. ELLIS. That is all I have.

Chairman TERRIL. You will be excused, Mr. Pierce.

(Witness excused.)

Mr. IVERS. Mr. Lacey.

R. W. LACEY was sworn and testified as follows:

Direct examination by Mr. IVERS:

Q. Your name, please?

A. R. W. Lacey.

Q. Where do you live, Mr. Lacey?

A. In Los Angeles.

Q. What is your business?

A. I am Vice President and General Manager of the Los Angeles-Seattle Motor Express.

Q. What part of the operation of that company are you
2383 directly connected with?

A. I manage the Los Angeles office.

Q. How long have you been engaged in the transportation business in connection with motor carrier transportation?

A. Since about 1926.

Q. How long have you had experience in connection with motor carrier transportation on points along the Pacific Coast?

Mr. BEROL. I am willing to stipulate Mr. Lacey's qualifications as an experienced motor truck operator.

Mr. SCHAFER. I will join also in the stipulation.

By Mr. IVERS:

Q. Would you state, Mr. Lacey, whether or not there is any difference in the gross revenue derived from the traffic that characteristically moves south-bound over the lines of the Los Angeles-Seattle Motor Express and the traffic that characteristically moves north-bound?

A. I would say that about 85 to 90 percent of the traffic moves north-bound—or, south-bound, moves under special commodity rates which are much lower than class rates in effect in the tariffs. It would be about 50 percent, very close to 50 or 60 percent of the north-bound revenue.

Q. Does the north-bound revenue move primarily on class rates?

A. Yes.

Q. Or north-bound traffic.

What effect would it have on the operations of the Los-Angeles-Seattle Motor Express, particularly if the south-
2384 bound traffic were further divided?

A. Well, the traffic moving out of the northwest is very limited. It is limited in commodities, and it is very seasonable. And there are certain peaks of the year that we have plenty of tonnage. There is other times of the year that has no tonnage; in fact, it is necessary to even run trucks empty south-bound to handle the traffic out of the south, and naturally if anybody took any of that tonnage or divided it, it makes it that much harder.

Q. If a new operation were to commence, would it be possible to develop any additional south-bound tonnage, or would it be necessary for them to seek the existing south-bound tonnage?

A. I am not just sure what you mean. The tonnage out of the northwest has been pretty well fixed, with the exception of one industry. There is only one industry that is growing up there, and that is the frozen food industry, and I would say all the other tonnage up there is constant. In fact, it is—on account of the war condition, the tonnage is less out of the north than it has been in the past on account of in the past they used to ship quite an amount of salmon, fresh salmon from the north to the south. At the present time, they are canning most of the salmon that is caught for provisions for the war.

Q. There has been some testimony here concerning exempt commodities, particularly fruits and produce and its availability for transportation by these applicants.

2385 There has also been some testimony by Mr. Hendrickson as to the difference in the rates on those commodities in

effect by the Los Angeles-Seattle Motor Express, as compared with exempt carriers.

What have you to say as to the comparative level of your rates on those commodities with the two applicants now before the Board?

A. We are a member of a Tariff Bureau in the south, and all the other carriers are a member of a Tariff Bureau in the north. Our rates were equalized. We try to keep them on the same basis at all times. And regarding the exempt commodities, I might say that two or three years ago we used to move truckloads of apples out of the Wenatchee Valley or Yakima and Wenatchee. At the present time the rate has been cut several times by the rails, and in fact the rate is so low now that a truck can't haul them any more. They are being hauled by exempt carriers and they are being hauled by a class of a carrier that goes into business, hauls them for a while, and goes bankrupt, and when he goes bankrupt another one comes in the field and starts hauling them.

But it is absolutely impossible to haul them and make a revenue that you can stay in business on.

Q. Well, are the rates of the applicants here the same as your rates on those commodities?

A. Yes.

2386 Q. And both are substantially above the level of these exempt commodity carrier rates?

A. Yes.

Q. There has been some testimony elicited from Mr. Hendrickson about the dollar volume of revenue earned by the Los Angeles-Seattle Motor Express out of the San Francisco area, as compared with the total gross revenue.

Has there been any reduction of rates in the San Francisco area that would affect that recently?

A. Well, I might say that as far back as three years ago the regulated carriers—I dont mean the exempt carriers—on the coast, have had numerous meetings to try to stabilize the rate situation on the Pacific Coast, and I believe it was in June of 1939 we had a long rate meeting and conference between the difference tariff bureaus on the Pacific Coast, and at that time this meeting was attended by the District Directors of the Interstate Commerce Commission who were trying to get the carriers together to stabilize the rates. And at that time the P. I. T. B., which is the Pacific Inland Tariff Bureau of Portland—I believe that Mr. Barry is the publisher of that tariff—and the members of the Interstate Freight Carriers Conference, which is the publishers of the tariff which we participate in, made an agreement that one carrier would not publish a rate without notifying the other carrier beforehand, so that each carrier could make the publishing date and

2387 effective date the same so that it wouldn't give the other carrier any disadvantage.

On three occasions this year the Pacific Inland Tariff Bureau has published rates without notifying us in the south, which has put us at a very distinct disadvantage.

Q. Were those reductions?

A. Very great reductions. And on two occasions when we were mailed the pages just several days before the effective date, we applied to the Interstate Commerce Commission to meet the rates on short notice which took about ten days to get an answer. We were refused the right to meet them on short notice. By the time we could publish the rates and get our rates in line, it made a difference of about 45 to 60 days, and during that period there was a great differential in rates. We had built up a very substantial tonnage, and naturally we lost it all and had to build it all over again.

When our rates—in fact, at the present time we haven't caught up with the last reduction as yet.

Q. You did not lose it all, but you lost some of it?

A. A good part of it.

Q. Now, have you any new equipment on order at the present time?

A. Yes; we have.

Q. What equipment have you on order?

A. We have three new units at the present time. In fact,
2388 we have one unit that is ready for delivery, and has been for the last 15 days, but inasmuch as we are a Washington corporation and our equipment is all licensed and registered in the State of Washington—and in the State of Washington if you buy a license, you have to buy it for the full year—we are waiting until we can get the new license to take delivery of the units we have.

Q. How many are on order at the present time?

A. Three.

Q. Is it your intention to add those three to the total number of your fleet, or to replace leased equipment with those three?

A. We are replacing all of our leased equipment.

Q. Are you also standardizing your equipment?

A. Yes. We are standardizing all of our equipment.

Q. If additional equipment is necessary to handle any additional amount of traffic in this territory, is the Los Angeles-Seattle Motor Express in a position to supply such additional equipment?

A. We are.

Q. How many new units have you purchased this year?

A. I believe we have seven or eight brand new equipments in the last six or seven months replacing older equipment.

Q. And you have three more on order now?

A. Yes.

2389 Q. There was some testimony elicted from the witness immediately preceding you about connections at Portland between Portland-Seattle carriers and carriers moving south of Portland.

Do you know with whom Pacific Highway Transport is now connecting at Portland for California points?

A. Yes. They connect and give practically all their freight to the Cascade Fast Freight.

Q. Do you know who Heyser Nickle Plate Line is connecting with?

A. No; I do not. They don't connect with us.

Q. Do you know who Robertson and Portland-Seattle are connecting with?

A. They give us some freight, not very much freight, originating in Seattle. But they give us some freight originating in the between points, between Seattle and Portland.

Mr. IVERS. You may cross examine.

Chairman TERRIL. Mr. Berol, any cross-examination?

Cross-examination by Mr. BEROL:

Q. Mr. Lacey, I do not have the transcript here, but I expect it in a few minutes.

I want to check my recollection with yours. I believe that the trial of your BMC–8 application was held in January of this year?

A. That is right.

Q. Do I correctly or incorrectly recall that at that time

2390 and place you testified that you had just recently established solicitation in San Francisco?

A. I believe that we established solicitation in San Francisco; that is, we have had an agent in San Francisco for several years, and the agent that we have has numerous solicitors.

Q. I imagine you mean a connecting carrier?

A. No; I don't mean a connecting carrier. I mean an agent that was making all our pick-ups, taking our phone calls and soliciting freight for us.

Q. The Haslett Warehouse Company?

A. That is right.

Q. I am talking about your own paid employees.

A. I believe it was the middle part—some time in 1939 we put a man up here on our own payroll to look after our interests.

Q. Now, I want to ask you a question, Mr. Lacey, that I think Mr. Ellis may be interested in.

I show you Exhibit No. 51, being a picture of a truck and trailer operated by the Pierce Auto Freight Lines.

Have you, in your experience, operated equipment of that type?

A. Yes; we have.

Q. From a standpoint of practical operating efficiency and from a standpoint of safety, what would you say as to the efficiency and safety in operations of that particular kind of
2391 equipment compared with other equipment that you operate?

Mr. IVERS. Just a moment. I object to that as improper cross-examination. This witness has not testified concerning the efficiency of any kind of equipment, nor was he offered for that purpose, nor has he testified to anything with reference to Pierce Auto Freight Lines or the equipment of Pierce Auto Freight Lines.

Mr. BEROL. I will call Mr. Lacey as my own witness. Any objection, counsel?

Mr. IVERS. I do not object to that.

Mr. BEROL. Mr. Lacey, you have not any objection to testifying on my behalf; have you?

The WITNESS. No; I guess not.

R. W. LACEY previously duly sworn, testified further as follows:

DIRECT EXAMINATION

Mr. BEROL. Now, Mr. Reporter, will you read Mr. Lacey the question just asked before the objection?

(The question referred to was read by the reporter.)

Mr. IVERS. Now, I object to that question. I now understand that this witness is now Mr. Berol's own witness, and therefore this is direct testimony on behalf of the applicant.

I object to it as incompetent, irrelevant, and immaterial. We are not here trying either the efficiency or the operations of the Pierce Auto Freight. They are not an applicant
2392 here. The question of the safety of their equipment is not in issue.

Mr. BEROL. Now, in response to that, let me say this: Mr. Pierce in protest to our application gave some substantial testimony as to the most efficient and effective and safe type of equipment to operate on this highway.

I am calling Mr. Lacey as my witness on rebuttal on the testimony offered by Mr. Pierce. Mr. Lacey has already been qualified as an expert and competent operator, as an operator of some 14 years' experience.

He is certainly qualified to offer testimony as to the various types of equipment from the standpoint of their efficiency and from the standpoint of their safety.

Mr. IVERS. I resist counsel's argument on that on the ground that my recollection of Mr. Pierce's testimony is that he testified to no such thing. He did testify, as I recall it, to the efficiency from the standpoint of lading, of using a truck and trailer as against a semitrailer, but not as to the safety or efficiency of the operation of a particular type of equipment as compared with any other. I know of no such testimony that Mr. Pierce introduced.

Mr. ELLIS. I will concur in that statement, and want to add that the exhibit in question was not offered in connection with any testimony concerning what was the most efficient equipment to operate, but purely to indicate the existence of mechani-
2393 cally refrigerated equipment, the ownership and operation of mechanically refrigerated equipment by the Pierce Auto Freight Lines.

Mr. BEROL. Now, again citing Mr. Farren's own evidence, I presume I am entitled to close this debate.

In connection with that, I want to say that Mr. Pierce offered Exhibit No. 51 as being representative of the type of equipment that he operated.

Mr. ELLIS. That is not correct at all. We introduced in evidence through Mr. Harold Frasher a picture of the type of equipment which Mr. Pierce recommended for facilitating interchange of traffic, and as typifying the type of equipment best suited to a through operation of ordinary types of traffic.

This was to illustrate only the refrigerated equipment used by Mr. Pierce.

Mr. BEROL. All right. Now, going beyond that, Mr. Pierce at length testified about the safety of his operations. He testified and expressed great fear that the proposed operations of the applicants would be insufficient.

All I am doing is here calling a witness on rebuttal. I am calling this witness without regard to what position he occupies in this proceeding. I am calling this witness for the purpose of offering testimony here as to what type of equipment is safest on the highway, and am certainly entitled to do so because safety of operations is one of the requisites prescribed by law and de-
2394 termines the fitness and ability of an applicant. And I am now questioning this witness with respect to various types of equipment and their respective and relative safety for the purpose of helping this Board to determine as to whether the applicant is fit and able.

Mr. ELLIS. I point out that there has been no testimony, to my recollection, on behalf of any protestant concerning the unfitness or lack of safety in the equipment of the applicant.

Mr. IVERS. Or of anybody else.

Mr. BEROL. Well, I will submit the objection for ruling.

Mr. ELLIS. Therefore, it is not proper rebuttal evidence.

Chairman TERRIL. The Board will rule that the objection may be sustained.

By Mr. BEROL:

Q. Now, Mr. Lacey, how many years' experience have you had in the operation of trucks?

A. About 15 years.

Q. Have you operated equipment of the type shown on Exhibit No. 51?

A. Yes.

Q. What would you say as to the desirability of equipment of that kind with respect to efficiency of operations?

Mr. IVERS. Just a moment. I'm going to object to that on the same ground that I previously objected.

That question is susceptible of a proper interpretation, but it is also susceptible of an improper interpretation. And because counsel is attempting very adroitly by indirection to
2395 arrive at the same point that he directly approached in a single question, I am going to make the same objection.

Mr. BEROL. Now, if that question is susceptible of a proper interpretation, as counsel concedes, then I am entitled to have the answer insofar as the proper interpretation may be put on it, and I will leave it to the witness to put the proper interpretation on it.

Mr. IVERS. It can be much more clearly stated so that it cannot be misunderstood.

Chairman TERRIL. Suppose you reframe your question, Mr. Berol?

Mr. BEROL. I will stand on the question, if the Board please. I think it is proper.

Mr. ELLIS. I hope the efficiency——

Chairman TERRIL. Just a minute. I do not think we need any further argument.

Let us have the question read.

(The question referred to was read by the reporter.)

Chairman TERRIL. The objection will be overruled. The witness may answer.

Mr. BEROL. I did not hear the ruling.

Chairman TERRIL. I say the witness may answer.

Mr. IVERS. Do you remember the question?

The WITNESS. That is regarding efficiency of operation?

Mr. BEROL. Yes.

2396 The WITNESS. Well, I will frankly say there is more efficient equipment on the road running up there.

By Mr. BEROL:

Q. And what type of equipment would you say is more efficient equipment?

A. I would say the dual drive is more efficient equipment.

Q. Are you familiar with the equipment that the Oregon-Nevada-California Fast Freight operates?

A. Yes.

Q. Do you know as to whether that equipment is or is not dual drive?

A. I don't know whether all of it is. I do know they have some dual drive units.

Q. Now, Mr. Lacey, do you know as to whether or not the applicant, the Oregon-Nevada-California Fast Freight, operates any cab-over-engine equipment such as is pictured in Exhibit No. 51?

A. I don't believe they do.

Q. What would you say, from the standpoint of safety of operations, as to the cab-over-engine equipment such as is pictured in Exhibit No. 51, compared with the type of equipment operated by the Oregon-Nevada-California Fast Freight?

Mr. IVERS. I object——

Mr. ELLIS. I object to that.

Mr. IVERS. On the same ground as the previous question, incompetent, irrelevant, and immaterial, improper rebuttal.

2397 Mr. BEROL. I will submit again that it goes to the question of the fitness of the applicant. This is my witness now.

Mr. IVERS. If he wants to ask him if the applicant's equipment is safe and efficient, I have no objection to that. But this comparison with the Pierce equipment is objectionable.

Chairman TERRIL. The objection will be overruled.

Mr. IVERS. Well, now, I want to call the Board's attention specifically to the fact that now counsel has arrived at the point where the previous objection was sustained, and by permitting the answer to this question, the sustaining of the previous objection is annulled.

Mr. BEROL. Which I am entitled to do because the previous question——

Chairman TERRIL. Let us not have any argument because the Board has ruled.

By Mr. BEROL:

Q. Will you answer the question?

A. May I have the question?

(The question referred to was read by the reporter.)

The WITNESS. I would say the Oregon-Nevada-California Fast Freight's equipment is safer.

Mr. BEROL. That is all. Thank you very much for testifying in my behalf.

Mr. IVERS. You are now back on cross-examination, Mr. Lacey.

Mr. SCHAFER. Do you have any further cross, Mr. Berol?

2398 Mr. BEROL. That is all.

R. W. LACEY, previously duly sworn, testified further as follows:

Cross-examination (resumed) by Mr. SCHAFER:

Q. Mr. Lacey, you have been operating over this road, the Los Angeles-Seattle Express and its predecessors have, for a period of about eight years?

A. Yes; eight or nine years.

Q. Over that period of time have you been serving such intermediate points as Medford, Grants Pass, Roseburg, Eugene, Salem, Albany, Corvalis?

A. We have been serving all points in the States of Oregon and Washington and a few points in adjoining states.

Q. Do you have any representation at those towns? By that I mean—well, I will just leave the question stand.

Do you have any representation in those towns?

A. Yes. We have representations in all towns we serve.

Q. Now, by "representation," do you mean the local transfer man who will deliver your shipments for you, or do you have an agent there who will quote rates and has tariffs on file?

A. We have in a number of towns agents. In other towns we have connecting carriers who solicit freight for us, look after our interests. In other towns we have our own paid solicitors.

Q. At those towns just named?

A. Not at all those towns. We don't have a hired solicitor

2399 in each one of those towns.

Q. Do you have a hired solicitor in any of those towns?

A. We have a man in Portland that we call a "Roaming Solicitor."

Q. I did not mention Portland.

A. I say—just let me finish. I say we have a man in Portland which is a "Roaming Solicitor," the same as you people have, that roams down through all that country and solicits freight. He goes east to the mountains. He goes down Highway 99, and any time that he hears of any tips, or anything, he follows them up to get new business, no matter where it is, anywhere in the State of Washington.

Q. You do not have intrastate rights of any kind in any state; do you?

A. We do not.

Q. And do not claim the right to transport from Medford to points north, such as Seattle?

A. No.

Q. Now, I believe you testified in a former hearing that you can operate your own equipment cheaper than the equipment which you lease; is that true?

A. In some cases, yes; in some cases we can't.

Q. If your business drops off, do you tie up your own equipment or do you lease fewer trucks?

A. We have no trucks on a lease that we can lay off. Our trucks are all leased and are licensed in our name and are
2400 under our complete control and they are steadily on the run. We don't take on trucks and put trucks off.

Q. Do I understand by that answer that the situation has never arisen when you had to tie up either a truck of your own or to lease fewer trucks?

A. In routing our trucks in either terminal it doesn't make any difference whether it is a leased truck or a company-owned truck. They take their turn on the way they are dispatched from the Seattle office, and they return the same way. In fact if we had two leased trucks and one of our trucks in town and it was the leased truck's turn to roll, it would roll and our truck would sit there. There is no preference at all.

Q. I still do not have an answer to my question.

If your business drops off, would you tie up one of your own pieces of equipment if it is necessary to tie up some equipment? Would it be your own or a leased truck?

A. We would tie up whichever piece of equipment which it was not turn to roll out. If we didn't have a load for it, it would set there until it was loaded. It wouldn't make any difference whether it was our own or a leased piece. They all go by turn.

Q. How do you handle Wenatchee freight?

A. Wenatchee freight is handled through Portland. I think we do handle some Wenatchee Freight through Seattle, but only in the case of when that freight is routed through Seattle
2401 by the shipper.

Q. What connection do you use out of Portland for Wenatchee?

A. I can—I don't know. I would have to refer to a tariff to tell you. We have our participating carriers in there.

Q. Do you know that——

Chairman TERRIL. Do you wish the information, Mr. Schafer?

Mr. SCHAFER. I was just thinking perhaps if Mr. Hendrickson is recalled he may be in a better position to answer that.

The WITNESS. No; I don't believe he is in a better position to answer that than I am.

Mr. SCHAFER. I appreciate the hurry the Board is in, and I don't think the point is important enough to warrant a search, unless you happen to find it.

Chairman TERRIL. We have got all night!

Mr. SCHAFER. How gracious.

Chairman TERRIL. We will take a few minutes' recess, gentlemen.

(A short recess was taken.)

By Mr. SCHAFER:

Q. Mr. Lacey, you heard Mr. Hendrickson testify that there was no occasion for any difficulty in making interline adjustments between carriers; did you not?

A. Yes; I did.

Q. Did you not in the last week or so pay to Consolidated Freightways a little item of $23.32 that had been pending
2402 for about three years?

Mr. IVERS. Just a moment. Who do you mean by "you"? Los Angeles-Seattle Motor Express?

Mr. SCHAFER. Mr. Lacey.

Mr. IVERS. Mr. Lacey?

Mr. SCHAFER. Yes.

Mr. IVERS. All right.

The WITNESS. Yes; I might explain that. I happened to be the agent for the Consolidated Freight Lines in Los Angeles for about two years, and I probably have in my desk now about $300 worth of claims that I got stuck on, and I was holding this $20 out against them. And they pestered me so much that the other day I gave them my personal check. But this has nothing to do with the Los Angeles-Seattle Motor Express, Inc., but was a settlement when I was their agent in Los Angeles, and it was personal.

By Mr. SCHAFER:

Q. I will ask you if this is approximately the circumstance of the case: A shipment of machinery from Los Angeles to Baker was re-weighed upon delivery to the consignee at Baker and found to be lighter than the billing showed, and the consignee paid on the actual weight shown on the re-weighing; that Oregon-California Fast Freight, one of the joint carriers involved, when advised of such light weight, promptly made an adjustment, but that you resisted such an adjustment, and in fact have some
2403 five letters on the subject which you have failed to answer and did not pay the item until Mr. McDonald called upon you personally?

A. I might state that I have about 20 letters on the same subject and other subjects that I wrote the Consolidated Freight Lines. Mr. McDonald when he called in my office to collect that $20, I laid before him over $60 worth of claims that they owe me personally, and he told me that the next time I was in Portland if I could get together with him, maybe he could get the money for me.

Q. I am not questioning a difficulty of that sort. I mean a difficulty in reaching an understanding between connecting carriers on the proper settlement of the claim. That is the point I am trying to prove.

A. This was not a connecting carrier proposition at all. As I stated before, I was the agent for Consolidated Freight Lines in Los Angeles, California, and this was strictly a personal matter of my own; had nothing to do with Los Angeles-Seattle Motor Express.

Q. Who was the line haul carrier between Los Angeles and San Francisco in that case?

A. It was the California Motor Express, or California Motor Transport Company.

Q. You were an official of that company; were you not?

A. I was the president of the California Motor Express and no official of the California Motor Transport Company.

2404 Q. Where did the California Motor Express operate?

A. The California Motor Express does not operate. They are an express corporation.

Q. You were president of that corporation?

A. Yes; I was.

Q. In your own convenience and necessity case of last January, you urged the importance of your one-day advantage over Consolidated Freightways, and Oregon-California's joint service; did you not?

A. Yes. We have always given better service than they have.

Q. And all of your witnesses expressed a preference for through service by one line without a transfer?

A. Yes; very much so.

Q. And they complained about damage and delay occurring at the junction points; did they not?

A. Yes.

Q. And that case is still pending before the Interstate Commerce Commission?

A. It is.

Q. And you are not here retracting any of that argument?

Mr. Ivers. Just a moment. I object to that on the ground that this witness has not testified to anything on that subject at all on direct examination.

I have not objected to it, although I could have objected to it as improper cross-examination. But I am going to object
2405 to that question because the witness has not been called upon to state any opinions on that subject.

Mr. SCHAFER. Well, I will read the witness a little of his own testimony.

Mr. IVERS. Well, I will object to your reading any of his testimony. It is improper cross-examination.

Mr. HOLBROOK. Wait until the question is completed.

Mr. IVERS. There is a question pending and I have objected to it.

Mr. SCHAFER. I will submit to it for a ruling without argument.

Chairman TERRIL. Let us have the question read.

(The question referred to was read by the Reporter.)

Mr. SCHAFER. "Any of that argument," I meant.

I will drop that question and ask you another one.

By Mr. SCHAFER:

Q. Do you still regard a through single line service as superior to a joint service?

Mr. IVERS. Objected to as improper cross-examination.

Chairman TERRIL. Well, again I will say, Mr. Ivers, we have not in the past limited cross-examination in this matter as to any point in which the Board feels it might be interested, and we will adhere to that ruling at this time.

The WITNESS. May I have that question?

Chairman TERRIL. The objection will be overruled.

(The question referred to was read by the Reporter.)

2406 The WITNESS. It all depends how the through joint service is handled.

By Mr. SCHAFER:

Q. Well, assuming that it is handled with interchange at a midway point, do you regard a through service——

A. I can't say that it makes any difference, because we interchange freight with numerous carriers and we have no delays.

Q. I will read you some testimony from Page 331 of your own BMC-8 case.

You testified in this case, did you not, that frozen goods cannot be reloaded and rehandled?

A. I testified that frozen goods could not be reloaded, certain types of frozen goods. I think that that was a certain class of commodity that we were testifying to at that time.

Q. You just a moment ago stated that you now do not regard a joint service involving an interchange of freight en route as being inferior to a through service.

A. Well, I might make a correction there. I believe that at this hearing in Seattle that you people stated in the hearing that you were running through equipment and interchanging equipment, running refrigerated equipment and that you were not interchanging the load.

Now, there is no reason if you have refrigerated products that you should interchange the load. You can interchange your equipment. It is not necessary to interchange the load. And you certainly—any line operating that has the tonnage is
2407 going to be foolish if they try to unload the trucks and reload them when they don't have to.

Mr. SCHAFER. Will you read the question, please, Mr. Reporter?

(The question referred to was read by the Reporter.)

Mr. IVERS. Well, I think that is an answer to the question.

Mr. SCHAFER. I will have to go back further, then. The point is——

Chairman TERRIL. Suppose you save time and repeat your question.

By Mr. SCHAFER:

Q. Do you regard a joint service involving an interchange of lading en route—never mind the through trailers; all that is argument—but assume that the through service involves an interchange at a halfway point, do you regard that as inferior or equal to a through service without interchange?

A. You have to take into consideration both services, how they are handled.

Q. Are you determined not to answer the question?

A. No.

Q. Will you please answer the question?

A. As I say, it depends how the freight is handled.

Q. What do you think personally?

A. Well, I think personally that if you unload the freight at Medford and then unload it at Portland again to get it to
2408 Seattle, naturally through service is better.

Q. Now, Oregon-Cal. and Consolidated Freightways was your principle competitor out of the San Francisco territory when you came into that territory a few years; is that not true?

A. I wouldn't say the Consolidated was. Oregon-Cal. was a competitor out of here.

Q. All right. And the Oregon-Cal. connected with Consolidated at Medford?

A. I believe they did.

Q. Can you state whether the volume which you have built in the last few years, since you put in representation at San Francisco, has been taken from the Oregon-Cal. line?

Mr. IVERS. I object to that on the ground that the exhibits of the Oregon-California and Consolidated show nothing has been taken from them. They have been increasing their traffic all the time.

Mr. SCHAFER. I asked if he can say.

The WITNESS. I believe I can explain that. I believe that we are handling the bulk—the bulk of our tonnage is tonnage they never did handle or never cared to handle, Consolidated or Oregon-Cal.; either one.

By Mr. SCHAFER:

Q. What kind of tonnage is that?

A. I don't believe they ever handled the frozen fish or fresh fish out of Seattle into San Francisco. I don't believe they had the equipment to handle it, the type.

2409 Q. Now, will you get back to the question. The question was:—Would you read the question?

(The question referred to was read by the Reporter.)

Mr. SCHAFER. Yes. It was whether or not you can say whether any of the volume of business which you built out of San Francisco north-bound was taken from the Oregon-California Fast Freight and Consolidated's joint service.

The WITNESS. I couldn't say how much was taken.

By Mr. SCHAFER:

Q. Well, you take what you can?

A. We are in the transportation business from here to Seattle, and naturally we take anything that is given to us to handle. I don't think it all comes from a competing carrier. There is business conditions. There is lots of things that bring more tonnage.

Q. Well, will you not concede, Mr. Lacey, that if Consolidated Freightways and Oregon-California Fast Freight can be held at a competitive disadvantage by reason of interchanging at Medford, that you will get more and more of their business?

A. Well, you would have to explain to me what you mean by a "competitive disadvantage."

Q. The disadvantage you just stated which exists as between a joint service involving interchange and a through service without an interchange.

A. Well, they have very many advantages that we don't have, and I don't think that has much bearing on it.

2410 Mr. SCHAFER. I am going to ask to have the question read. I couldn't even ask it again myself, but I know I am not getting a response to it.

Chairman TERRIL. Give him the question.

(The question referred to was read by the Reporter.)

Mr. IVERS. I think the answer was responsive. The witness said that that was not the only competitive factor; that there were other factors at which the Los Angeles-Seattle Motor Express was at a disadvantage which offset any disadvantage from an interchange.

Mr. HOLBROOK. The witness made an argument.

Mr. IVERS. I do not think he has to answer that question categorically. He answered that there were offsetting advantages and disadvantages.

Chairman TERRIL. All right. Let us have an end to the argument. I believe that the answer is fairly responsive to the question.

The WITNESS. I can explain the advantages and disadvantages if you want to know them.

Mr. SCHAFER. We do not want any more explanations. What I would like to have is an answer to the question.

Chairman TERRIL. The Board has indicated that it deems the answer fairly responsive to the question, Mr. Schafer.

Mr. SCHAFER. All right.

By Mr. SCHAFER:

Q. Now, I will ask you why, if your service
2411 were exactly equal to that of Consolidated Freightways and Oregon-California Fast Freight you would not expect to get a greater portion of through tonnage than you now enjoy?

A. (Pause.)

Q. I will explain that further. I will ask you another question leading up to that.

Your present tonnage out of San Francisco does not equal that that Consolidated Freightways and Oregon-Cal. are presently handling, according to the exhibits in this case and your own testimony; does it?

A. It does not.

Q. And it does not equal——

A. I would like to—I might qualify that a little bit.

I believe that our south-bound tonnage might equal it. It is a differential there. Our south-bound tonnage is far greater than our north-bound.

Q. Well, with that in mind, I will ask you again: Why would you not expect, with exactly equal service and not any competitive advantage, to eventually get a greater portion of the north-bound tonnage than you now enjoy?

A. Well, Consolidated has a distinct advantage because they have agents in probably a hundred towns, and they have quite a buying power in the northwest, and they use the reciprocity angle to solicit business. They got routing orders, and they force them on the shippers. And that way they get more

2412 business out of the northwest than we can. That is why at the present time you say it is inferior service. They still have a good business.

Q. And their "good business" is easier for you to get if you can keep it the way it is; is that not true?

Mr. IVERS. I object to that as argumentative.

Mr. SCHAFER. I wait for a ruling.

Chairman TERRIL. The objection will be sustained.

Mr. SCHAFER. That is all the questions I have of this witness.

Mr. IVERS. That is all, Mr. Lacey.

(Witness excused.)

Mr. IVERS. Do you want to ask Mr. Hendrickson any further questions, Mr. Schafer?

Mr. SCHAFER. Let's see. I think I might have some.

Yes; I have a few more questions of Mr. Hendrickson.

Chairman TERRIL. The record may show that Mr. Hendrickson has been previously sworn.

OSCAR M. HENDRICKSON, recalled as a witness, having been previously duly sworn, testified further as follows:

Cross-examination by Mr. SCHAFER:

Q. You testified, Mr. Hendrickson, about the mechanical parts for all equipment being standard.

Do you mean that to apply also to Consolidated Freightways?

2413 A. To quite a large extent; yes.

Q. You have personal knowledge of the parts which they have?

A. I have seen a number of their units and I understand that they are purchasing ten units very similar to ours at the present time.

Q. Where are they purchasing those?

A. I have been told from Peter-Built Motors.

Q. Do you know whether or not those ten pieces of equipment are being constructed to special specifications?

A. Oh, they probably are.

Q. Do you know whether or not any part of those specifications conforms to the parts that are in your present equipment?

A. Well, I can tell you this: From observing Consolidated Freightways' equipment on the highway, I see that they almost uniformly use Cummins Diesel motors the same as ourselves, and almost every carrier running between Washington and California.

Q. What size tires do you use?

A. Well, varying sizes.

Q. What is your standard size tire?

A. 9.00—9.00 and 10.00s since 9.75s have been eliminated by the tire manufacturers.

Q. 20-inch?

A. Yes.

Q. Do you know that Consolidated Freightways has
2414 standardized 22-inch tires?

A. We have some 22 inch rubber also. It happens we have 8.75s, 9.00s, 10.00s and some of them are by 20 inch, and some of them are by 22, and some of them are by 24, and we have a supply of them up and down the highway, and/or did have, to meet blow-outs on any size.

Q. So the carrier who might have a standardized size of his own, if he were going to interchange with another carrier, who might have other sizes, he would have to triple his stock of sizes?

A. Not necessarily. All of the sizes we mentioned are very uniform sizes; can be obtained almost anywhere here on the west coast.

Q. On the ordinary interchange with carriers, such as a carrier out of Seattle to Mt. Vernon, how many copies of the through billing do you turn over to them?

I am speaking of a through movement, we will say, from San Francisco to Mt. Vernon.

A. Our billing, or bills, are made up in five parts. The original stays in Los Angeles, one copy stays in Seattle, being our signed copy, wherein we turn the shipment over to the connecting carrier and in the event that the shipment is a collect shipment, three parts go with the shipment to Mt. Vernon.

Q. And——

2415 A. If the shipment is prepaid, only two parts go forward.

Q. How many of those does the connecting carrier have after the transaction is completed?

A. He has two or three, depending on collect or prepaid.

Q. Does he surrender any copies to the shipper on prepaid?

A. I imagine he would surrender one copy.

Q. Do you know whether they make it a practice to rebill in order to get sufficient billing for their own accounting needs?

A. In our case I don't believe it would be necessary, if everybody followed our practice.

Q. Do you know whether or not they do?

Mr. IVERS. Who do you mean by that?

Mr. SCHAFER. The connecting carrier that we are speaking of.

The WITNESS. Yes; I believe they do rebill with cross-reference to our billing.

Mr. SCHAFER. That is all.

Mr. IVERS. That is all, Mr. Hendrickson.

(Witness excused.)

Mr. ELLIS. In light of the lateness of the hour, I am going to refrain from calling that one other witness.

Chairman TERRIL. Do protestants have any further witnesses in this matter?

Mr. IVERS. No. So far as I know, protestants rest.

2416 Chairman TERRIL. Do applicants, Oregon-California-Nevada, have any rebuttal testimony that they care to present?

Mr. BEROL. Yes, sir. Call Mr. Gritsch.

Chairman TERRIL. The record may also show that Mr. J. A. Gritsch has been previously sworn in this matter.

J. A. GRITSCH recalled as a witness, having been previously duly sworn, testified further as follows:

Direct examination by Mr. BEROL:

Q. Mr. Gritsch, calling your attention to Exhibit No. 38, offered in evidence by the protestants, I will ask you to read it—it is very short—so that you may refresh your recollection.

I will ask you, Mr. Gritsch, with respect to traffic that you originate in the Bay area destined to points beyond Medford, as to what portion of that traffic is destined to points intermediate between Medford and Portland and what portion of that traffic is destined to Portland and points beyond?

A. I would say that about 10 percent of it between Medford and intermediate points and 90 percent beyond Portland.

Q. What portion of that traffic, if you were authorized to conduct the operation that you propose here, would be carried on through trucks moving from San Francisco to Portland without stopping at intermediate points and what portion would

2417 be carried on way trucks stopping at intermediate points?

A. As I stated before there would be 90 percent of it for points beyond and 10 percent intermediate.

Q. That is not taking into consideration the traffic destined to Medford, I take it?

A. No. That is correct.

Q. No, Mr. Gritsch, you were present, and did you hear the testimony of the Witness Pierce?

A. I did.

Q. Particularly, did you hear that portion of his testimony devoted to the proposition as to whether your application was granted you would operate at a loss?

A. I heard that.

Q. Did you understand that testimony?

A. As far as Pierce is concerned, I understood it; yes.

Q. Now, earlier in this proceeding you testified that if the application were granted to expected to be able to conduct the operation at a profit?

A. That is correct; yes.

Q. In view of the testimony submitted by Mr. Pierce, do you want to change your testimony in that regard?

A. I don't understand exactly the question.

Q. In view of the testimony offered by Mr. Pierce, do you want to change your testimony when you testified you expected to conduct the operations at a profit?

2418 A. I expect to operate it at a profit; yes.

Chairman TERRIL. Then the answer is you do not care to change your previous testimony on that point?

The WITNESS. No; I don't.

By Mr. BEROL:

Q. Now, Mr. Gritsch, let me ask you as to whether, if the proposed operation is authorized, you are prepared, and do on behalf of the Oregon-California-Nevada Fast Freight pledge all of the assets and resources of that company towards a full and faithful performance of the service that you propose?

A. I do.

Q. Do you pledge the resources and assets of your company, irrespective as to whether the operations will prove profitable or otherwise?

A. Yes.

Q. And is it your testimony that if the operation is authorized, you will continue to perform a daily service in accordance with your testimony and will offer to the public a full and complete service, such as you have offered in the course of your testimony here?

A. Yes, sir.

Q. Now, were you present and did you hear the testimony of the Witness Pierce with respect to the time of transit between San Francisco and Portland?

A. Yes, sir.

2419 Q. There has been some testimony or some reference in the record here, respecting an interchange between your company and the Pacific Seaboard Motor Lines at Medford, Oregon.

Has such an interchange taken place recently?

A. It has; yes.

Q. Have you had occasion to make any check of the operations conducted by the Pacific Seaboard Motor Lines as between Portland and San Francisco?

A. Yes, sir.

Q. In the operations conducted by that company between Portland and San Francisco, what route is followed?

A. Pacific Seaboard Motor Lines operate over Highway 101.

Q. As far as Grants Pass, Oregon?

A. It is 99 as far as Grants Pass and 101 from Grants Pass to San Francisco.

Q. Have you had any personal experience in comparing the two ideas, one 99 from Portland to Grants Pass and 101 from Grants Pass to San Francisco?

Chairman TERRIL. I might point out that technically that is not correct. There is a connection between 99 and 101 there that is not covered there.

Mr. BEROL. I do not remember the number of the highway, but may it be understood that that addition is included?

By Mr. BEROL:

Q. Have you by your experience had an opportunity to judge the normal time in transit following first the route
2420 followed by the Pacific Seaboard and second the route between Portland and San Francisco via Highway 99 and Highway 40?

A. Yes.

Q. Which of the two routes would you say, all other facts being equal, would be susceptible to the quicker transit?

A. Highway 99 and 40.

Q. Have you made any checks as to the time in transit by the Pacific Seaboard Motor Lines between Portland and San Francisco over the route that they follow?

A. I have; yes.

Q. What is a normal time in transit?

A. 26 hours.

Q. Based upon that, what is your present view as to whether or not the original estimate you made of a 25-hour time in transit between San Francisco and Portland via Highways 40 and 99 is correct or incorrect?

A. It is correct.

Q. Now, are you satisfied that so far as through traffic is concerned, without intermediate stops for loading or unloading, that 25 hours is a fair and accurate estimate of time in transit?

A. It is; yes.

2421 Q. What is your view as to whether 25 hours time in transit for the through movement without intermediate loading or unloading permits operations consistent with the safety of operation that your company now enjoys?

You understand the question, Mr. Gritsch?

A. No; I don't.

Q. I will reframe it.

What is your view as to whether the conduct of an operation of a through operation without intermediate loading or unloading between Portland and San Francisco over Highways 40 and 99 will permit you to conduct that operation with the same degree of safety that you now conduct your other operations?

A. I say it would be conducted on a safety operation.

Mr. BEROL. That is all.

Cross-examination by Mr. ELLIS:

Q. Do I understand, Mr. Gritsch, that you propose to handle no local traffic on schedules which handles the Portland-San Francisco traffic?

A. That is correct; yes.

Q. That the high speed schedules would not deliver freight originating in San Francisco Bay and destined to Grants Pass, Roseburg, or Salem or such points?

A. It would not; no.

Q. How would you propose to render service to local
2422 points in Oregon such as Grants Pass, Roseburg, Salem and Albany?

A. That would be on a schedule that is loaded from here to take care of the intermediate points.

Q. Then that would be accorded a somewhat slower schedule than the so-called "hot shot" schedule to Portland and points north?

Mr. BEROL. Just a minute. I will call attention to the fact that the "hot shot" has never been designated as such by the witness, nor have we ever adopted any "hot shot" schedule.

Mr. ELLIS. I think the witness understands my language.

The WITNESS. I would say the schedule that serves the intermediate points beyond Medford would be more slow than the through on account of stopping and unloading.

By Mr. ELLIS:

Q. Could you tell us about what time schedules serving Eugene out of San Francisco Bay would arrive in Eugene?

A. I would say about 2:30, 3:00 o'clock in the afternoon, the following afternoon.

Q. That is about the average time of arrival of your trucks in Medford at the present time; is it not, from San Francisco Bay?

A. No; it is not.

Q. Many of your trucks from San Francisco Bay to Medford arrive a little earlier than that; do they?

2423 A. Well, a little earlier than what?

Q. 2:30?
A. Oh, yes.
Q. And you have a great many of them that you are operating today that arrive even later than 2:30 in Medford?
A. The truck that goes through Sacramento picks up the Sacramento freight, arrives in Medford at an average of, I would say, from 1:30 to 2:00 in the afternoon.
Q. Do you propose to operate your schedules between San Francisco and Medford at any higher speeds than you operate at the present time?
A. No.
Q. Do I understand you are familiar with the operating conditions of Pacific Seaboard Motor Lines?
A. To some extent; yes.
Q. In just what manner have you obtained that knowledge?
A. From connections we have had with them since October 3d.
Q. How closely have you been informed of those operations?
Mr. BEROL. Objected to on the ground it is improper cross-examination, unless the question is confined to the point of time in transit. That is the only point in connection with the operations of that company that the witness expressed any familiarity with on direct examination.
Chairman TERRIL. Is that what the question is directed to, Mr. Ellis?
2424 Mr. ELLIS. It is directed to that question to ascertain how familiar the witness is with the operation on the Pacific Seaboard Motor Lines.
Chairman TERRIL. Now, do you know what the question was, Mr. Gritsch?
The WITNESS. No; I do not.
Chairman TERRIL. Give him the question, please.
(The question referred to was read by the reporter.)
Mr. BEROL. Respecting the point of time in transit, Mr. Gritsch.
The WITNESS. Well, I have checked—I know the time in transit from the time the truck leaves here until it arrives in Portland.

By Mr. ELLIS:
Q. It operates out of your terminal here; does it?
A. Yes.
Q. And you see it when it departs here, out of here?
A. In some instances, I do; yes.
Q. Do you obtain reports from Portland as to the time of arrival there?
A. I do; yes.

Q. Now, to what extent does that line render service to intermediate points between San Francisco Bay and Portland?

A. It serves—the truck leaving here loaded through for Portland, serves no intermediate points.

2425 Q. Can you tell us anything concerning the speed at which those trucks are operated making the 26-hour nonstop schedule from here to Portland via 101 and 99?

A. No; I don't know what speed they drive; no.

Q. Have you any information, then, upon which you could express an opinion that those trucks are actually being operated at safe speeds at the present time?

A. I would say they are operated at safe speeds; yes.

Q. And how fast is that?

A. Well, truck and trailer 40 miles an hour.

Q. You think that is the normal, maximum safe speed for such an operation?

A. I would say yes; it is.

Q. I assume you would concede there would be many points on the route that would require substantially lessening the speed by reason of traffic conditions and passing through business districts?

A. Now, that is true; yes. Otherwise, why, I might say this: That it is only 700 miles from here to Portland. If you could average 40 miles all the way through, why, you would probably get there in 16, 17 hours.

Q. Is it your policy to observe reasonably strictly the speed restrictions in these restricted zones in city limits and school zones and matters of that kind?

2426 Mr. Berol. Are you asking the witness about his policy now or the policy of the Pacific Seaboard?

Mr. Ellis. No; his policy now.

The Witness. Well, the only way I can answer that is this: That all the drivers pay their own fines, and naturally they are not going to drive through some town and get a ticket where they have to pay a fine. And I haven't heard of any of them getting any tickets lately. So I think that they are driving according to the law.

By Mr. Ellis:

Q. That is your means of having legal speed limits maintained in the operation of your trucks, or one of them, at least?

A. I would say yes; it is.

Q. Do you know whether these trucks of Pacific Seaboard are handling any traffic out of San Francisco north-bound at the present time to Portland?

A. Whether they are handling any?
Q. Yes.
A. Yes; they are.
Q. Do you know whether they are going out loaded?
A. Yes, sir.
Q. Is that true in the south-bound direction?
A. Pretty well so; yes. I might say this: That Seaboard, Pacific Seaboard operates from Portland to Los Angeles,
2427 and they may drop off freight in San Francisco and continue on through to Los Angeles.
Mr. ELLIS. That is all I have.

By Mr. IVERS:

Q. Are your trucks equipped with service recorders, speed recorders?
A. Yes; they are.
Q. Are these trucks of Pacific Seaboard Motor Lines so equipped?
A. No; I couldn't say to that, I wouldn't know.
Q. Well, you know definitely, then, the speeds at which your trucks operate at all points along the operation?
A. Do I know?
Q. Well, you have means of knowing that; have you not?
A. I don't think there is any truck operator that knows how fast his trucks are operating at different times. I have an idea of the speed.
Q. You can calculate the speed from the service recorder; can you not?
A. You cannot.
Q. You cannot?
A. No. You can tell at the time the truck is stopped and the time it is moving, but you can't tell the speed it is traveling.
Q. But you can tell the distance traveled between two given points; can you not?
2428 A. If the driver would write down the places he stopped, then you could; yes.
Q. You have a driver's log for that purpose; do you not?
A. Yes. But the driver's log don't show where the driver might stop. The driver might stop at Redding, for instance, then stop again at Dunsmuir, which is 50 miles. It might be Mt. Shasta or Weed, and you wouldn't know that unless the driver wrote it down.
Q. He is supposed to write it down, is he not?
A. No. According to the driver's log, it is supposed to show the points and the time they stopped. It don't show the place.

Q. How many pieces of equipment of Pacific Seaboard Motor Line are operating on this schedule or this elapsed time that you indicated here?

A. What was that?

Chairman TERRIL. Give him the question, please.

(The question referred to was read by the reporter.)

Chairman TERRIL. By that do you refer to this 25 hour schedule?

Mr. IVERS. 26 hour schedule.

Chairman TERRIL. Or, 26 hour schedule.

The WITNESS. They were up to recently operating two trucks and two trailers and one semitractor and trailer. But at
2429 the present time they are operating one semitractor and trailer, through from Portland to Los Angeles, and two trucks and two trailers operating between Portland and Medford.

By Mr. IVERS:

Q. So that there is one semitrailer that is making this 26-hour time that you refer to at the present time?

A. That is correct; yes.

Q. How many trips, approximately, has that equipment made on this 26-hour elapsed time?

A. During what period of time?

Q. As long as you have been observing it?

A. Well, I would say about 10 or 12 trips.

Q. And those 10 or 12 trips are since October 1st?

A. That is correct; yes.

Q. Up to the present time?

A. Yes.

Q. What was the reason, if you know, for discontinuing the operation of the trucks and trailers through to San Francisco and operating them to Medford?

A. Well, one reason was that Pacific Seaboard Motor Lines and the Oregon-Nevada-California Fast Freight made a connection at Medford, Oregon, for points north.

Q. What elapsed time were you able to make over that connection between San Francisco and Portland?

A. About 28 to 30 hours.

2430 Q. That is on through traffic?

A. Yes, sir.

Q. Not serving any intermediate points?

A. That is correct; yes.

Q. Well, now, Mr. Gritsch, if you were able through the services of Pacific Seaboard Motor Line to give the public a 26-hour service on a through service, as you have described from San Francisco to Portland, why have you changed that service to an interline service over Medford on a 28 to 30 hour schedule?

A. I don't operate the Pacific Seaboard Motor Lines.
Q. Well, your 47 percent of stock is controlled by you; is it not?
A. That is correct; yes.
Q. And 51 percent by your brother?
A. That is correct; yes.
Q. And the other 2 percent by two other brothers?
Mr. BERGL. No.

By Mr. IVERS:

Q. Or another brother and a sister-in-law?
A. No; that is not correct.
Q. Well, if it is not, then, your counsel misinformed me.
Mr. BERGL. I think you are misconstruing what counsel told you. Counsel correctly informed you. The other two shares
2431 are held, one by this witness individually and one by the wife of Ernest Gritsch in order to qualify them as officers of the corporation under the Oregon law.

By Mr. IVERS:

Q. That is the situation, is it not?
A. That is correct; yes.
Q. Now, in view of that fact, I want to ask you again why you have deprived the public of a 26-hour service by direct through service of the Pacific Seaboard Motor Lines and subjected the public to a 28- to 30-hour service over the interline service?
A. As I stated before I have the control of the Oregon-Nevada Fast Freight which operates from here to Medford, and I have no control over the Pacific Seaboard Motor Lines.
Q. Did you negotiate with them to take that equipment off of Highway 101 to run and terminate it at Medford to connect with you?
A. I did not.
Q. How did they happen to do that?
A. I made a connection, a concurrence with them and naturally I teletype them whatever tonnage is going through to Portland and points beyond, and it is up to them to make arrangements to handle the tonnage.
Q. I see. Now, in the situation in which you find yourself, you for reasons of your own, deemed it more proper to have this revenue from this freight on a slower schedule inure partly to
2432 the benefit of the Oregon-Nevada-California Fast Freight rather than have it inure to the benefit of the Pacific Seaboard, the stock of which is owned, as I have indicated by the previous questions; is that the controlling factor?
A. That is correct; yes.
Q. And your interest in that situation is rather to get 100 percent of the revenue in a company that you would wholly control as

against all of the revenue in a company in which you only own 47 percent, rather than to give the public better service?

Mr. BEROL. May I have that question read. It may be clear. I am not sure.

(The question referred to was read by the reporter.)

Mr. BEROL. Do you understand the question, Mr. Gritsch? I think I do. I am not sure.

The WITNESS. I don't think I do.

Mr. IVERS. Let me restate it, then.

By Mr. IVERS:

Q. Mr. Gritsch, I admit it is a rather complicated situation, but I think you have created the complication.

You would rather have that portion of the revenue from through freight that you can acquire paid into a company that you control 100 percent, the balance into a company in which you own 47 percent, than to have the whole revenue go into a company in
2433 which you only have 47 percent, and that is the controlling factor; is it not?

A. Well, I would say from my selfish standpoint; yes.

Q. You would rather make a profit than have Ernest make too much?

A. I am looking out for myself, and I let Ernie look out for himself.

Q. It is not a family enterprise any more?

A. No. That is true.

Q. Well, now, in order to create this service that the Pacific Seaboard Line instituted, where did they acquire the equipment with which to perform the service?

Mr. BEROL. Objected to as being improper cross-examination, going beyond the scope of direct.

Mr. IVERS. I do not think it is.

Board Member STARIN. I did not get the question.

(The question referred to was read by the reporter.)

Board Member STARIN. Any objection to that?

Mr. BEROL. The question was objected to on the ground it is improper cross-examination, going beyond the scope of direct, and on the further ground that no proper foundation has been laid that would indicate that this witness knows. But I am resting primarily on the first ground stated.

Chairman TERRELL. The objection will be sustained.

Mr. IVERS. I do not know why I should be treated that way. I tried to object when Mr. Lacey was on the stand to
2434 questions that went far beyond the scope of the direct examination, and the Board informed me that there had been no such a rule enforced here on direct.

Mr. BEROL. I made him my witness.

Mr. IVERS. It was not you. It was when Mr. Schafer was examining him. In addition to that, this question does not go beyond the scope of direct examination, because I am going to find out why he cannot control this——

Chairman TERRIL. The ruling that was made at that time, Mr. Ivers, or, the statement, rather, of the Board, was that the scope of cross-examination had not been limited as to points in which the Board felt that it had some interest in the determination of this matter.

I believe that that was the statement that I made.

Mr. IVERS. I will grant you that that was the statement that was made. I must retract the statement that I made.

That is the statement you made, but I think this matter certainly is within the scope of direct examination, squarely within it.

Chairman TERRIL. All right. In order to have a fair——

Mr. IVERS. I will ask another question.

By Mr. IVERS:

Q. Is it not a fact, Mr. Gritsch, that the equipment which was taken off of the highway 101–99 combination route and terminated at Medford to connect with your operation was equip-
2435 ment that you leased to the Pacific Seaboard Motor Lines?

A. That I leased from them?

Q. To them.

A. No.

Q. Oregon-California-Nevada Fast Freight leased to them?

A. Equipment that was taken off——

Q. The equipment that is now interchanging at Medford?

A. I have a lease—I am leasing equipment to the Pacific Seaboard Motor Lines at the present time. That is correct; yes.

Q. And that is the equipment that was operating on this 26-hour schedule?

A. No.

Q. Where is the equipment now that they were operating on the 26-hour schedule?

A. As I stated before, part of it is running from Portland to San Francisco, or, Portland to Los Angeles via 101.

Q. That is the semitrailer?

A. And the truck and trailers. They also operate there.

Q. Well, where are they operating most of the time?

A. At the present time?

Q. Yes.

A. I would say that trucks and trailers are operating at least two-thirds of the time between Portland and Medford.

2436 Q. Well, now, does the Pacific Seaboard Motor Line own those trucks and trailers?

A. They do; yes.

Q. How many?

A. There is two trucks and two trailers and one semi, or tractor and semitrailer.

Q. Have you been able to make any better time than 28 hours on this interchange operation?

A. No.

Q. Where is the time lost?

A. I don't know. I couldn't answer that.

Q. Have you not paid any attention to that?

A. I did some; yes. But I haven't—I haven't had a final check-up to tell exactly where the time is lost.

Q. How does it happen that you so meticulously examined into this 28-hour schedule and knew all about that, but you have not examined into the reason why you cannot make any better than 28 or 30 hours time on this interchange?

A. Well, as I stated before, I know the departure time of Seaboard trucks when they leave Portland and when they arrive in San Francisco and go on through to Los Angeles. But the operation from here north where we interchange equipment and transfer freight at Medford, that has just been recently, and I haven't been able to check up yet and find out yet where the delays were.

2437 Q. How recently?

A. Last week. I have been at the hearing all the time. I haven't had any time at all.

Q. I mean, how recently was the service inaugurated, the interchange service?

A. Since October 3d.

Q. You started at that time?

A. That is correct; yes.

Q. You think that you can increase the speed of that operation, that interchange operation?

A. That would be a guess on my part.

Q. You already know that some of the trips are operating at 28 hours, while others are operating at 30?

A. That is correct; yes.

Q. So there is some reason there that is eliminating itself in some instances where you can make faster time; is there not, obviously?

A. Faster time than what?

Q. Than 30 hours. The fact that you are making it in 28 hours at times indicates that some delay in some of the trips is being eliminated on others?

A. That is true; yes.

Q. Do you not think with a little closer supervision than you have given it, that you might be able to eliminate some more
2438 time?

A. Well, to a certain extent I would say it might; yes. But I have no control over the drivers from the time they leave here in the evening until they drive through. I don't think there is any operator who has. If the driver stops for an hour here or a half hour why——

Mr. BEROL. He may be out of Medford?

Mr. IVERS. I will ask the witness questions, and he does not need any suggestions from counsel.

Mr. BEROL. I would like to be clear, counsel. You have not any objection to that?

Mr. IVERS. Not at all.

By Mr. IVERS:

Q. That would also be true if you were operating on a 25-hour schedule, that you have not any control over where the driver stops after he leaves here?

A. No. I say that is correct to some extent; yes.

Q. Well, Mr. Gritsch, without the necessity of granting the application that you have made here, you have already been able to create a situation that brings you almost to the same conclusion that you hope to acquire by having this application granted; have you not?

A. No.

Q. Why not?

A. That puts me in the same category that I was before. I still have a connecting carrier to connect with.

2439 Q. But you now have a connecting carrier that you control and with whom you will have no difficulty in cooperating; is that not true?

A. It is not; no.

Q. With your ownership of 47 percent of the stock and with your brother who has been long associated with you in the Oregon-California Fast operation, do you not think that you have eliminated the most of the lack of cooperation that you experienced with Consolidated Freight Lines?

A. I would say no; I haven't.

Q. Do you think that you are going to have the same trouble with your brother in this company that you had with them?

A. I might have; yes.

Mr. IVERS. That is all.

Redirect examination by Mr. BEROL:

Q. Mr. Gritsch, you were asked by Mr. Ivers as to whether your new connection with Pacific Seaboard Motor Lines would not eleminate the difficulties and the inefficiencies in service which may exist at the present time, and you answered that you did not know whether it would or not.

Now, what would you say as to whether your new connection with the Pacific Seaboard Motor Lines, insofar as the shipping public is concerned, would or would not enable you to give a complete service such as you propose in your own
2440 application here?

A. It would not.

Q. Why not?

A. Because Pacific Seaboard Motor Lines cannot serve the intermediate points from Grants Pass to Portland.

Mr. BEROL. That is all.

The WITNESS. And I might also say the Coast territory down to Coquille, Marshfield and North Bend.

By Mr. BEROL:

Q. How about Lakeview?

A. That is correct; also, to Lakeview, Oregon.

Mr. BEROL. That is all.

Mr. IVERS. I have no questions.

Chairman TERRIL. Any questions?

You are excused, Mr. Witness.

(Witness excused.)

Mr. BEROL. The Oregon-Nevada-California Fast Freight rests.

Mr. SCHAFER. Call Mr. Weisler for rebuttal.

L. F. WEISLER recalled as a witness, having been previously duly sworn, testified further as follows:

Direct examination by Mr. SCHAFER:

Q. Mr. Weisler, have you made an investigation on the grades and curves of U. S. Highway 101 from Coquille to San Fran-
2441 cisco, as compared to the route through Medford?

A. Yes; I have.

Q. Is that comparison similar to the information submitted by Mr. Farrens and another witness of Southern Pacific Company?

A. It is similar.

Q. What is the source of your information?

A. The source of our information, or, rather, my information is from the State Highway Departments of the two states, Oregon and California.

Q. How does your survey compare with that presented by Mr. Farrens.

A. My survey and that of Mr. Farrens agrees except in a few minor instances.

However, there is one major difference, in that Exhibit 35 shows the total of 69.95 miles with grades of 3 percent or more over 500 feet in length over Highway 101 between Coquille and the Golden Gate Bridge. Whereas, the exhibit under discussion here now shows 28.5 miles of grades of 3 percent or more 500 feet long or more. Otherwise, the differences are minor.

Q. Do you have any evidence from the Highway Department to support your computations?

A. I have here with me all the information obtained from the Highway Departments.

2442 Mr. SCHAFER. I will ask that the exhibit be given a number, please.

Chairman TERRIL. It will be marked as No. 67.

(Exhibit 67, Witness Weisler, marked for identification.)

Mr. SCHAFER. I will offer Exhibit No. 67.

Chairman TERRIL. Any objection?

Hearing no objection, No. 67 for identification will be received in evidence and marked with that number.

(Exhibit 67, Witness Weisler, received in evidence.)

By Mr. SCHAFER:

Q. You heard the witnesses for connecting lines operating down Highway 101 testify as to newly published and filed through joint rates applying between San Francisco and Coos Bay territory.

A. Yes; I heard that testimony.

Q. Have you made an investigation to determine what rates were published?

A. Through class rates—I will make that read "Through competitive Class rates" have been published.

Q. Have any other rates been published?

A. I found no joint through commodity rates between Marshfield and San Francisco or from Marshfield to San Francisco on dairy products, such as butter and cheese. This is the chief commodity moving from Oregon points on U. S. 101 up to North Bend. There is a rate on cheese of 80 cents on 2,000 pounds from Marshfield to Eureka over this joint service, and that is

2443 20 cents per hundred weight higher than our any-quantity rate from Marshfield to San Francisco over the route via Roseburg and Medford.

Q. Now, there is some confusion in the record as to the legal speed for a truck and trailer in the State of California. Have you determined what the legal speed is?

A. I find it is now 40 miles per hour.

Q. Have you made a study of the density of travel on the route, Marshfield to San Francisco via U. S. 101 as compared to traffic via Roseburg and U. S. 99?

A. Yes; I have.

Mr. IVERS. May I ask, Mr. Schafer, does that differ any from the previous exhibit?

Mr. SCHAFER. The previous exhibit introduced by Mr. Farrens showing the density of travel is incomplete as compared to this.

I ask that this exhibit be given a number of identification.

Chairman TERRIL. It will be marked No. 68 for identification.

(Exhibit 68, Witness Weisler, marked for identification.)

By Mr. SCHAFER:

Q. Will you explain this exhibit, please, Mr. Weisler?

A. I think this exhibit should be self-explanatory. In preparing it, in order to obtain the latest traffic count
2444 figures, it was limited to only one count on 101 in Oregon, and that was at Harbor. There were no other traffic counts on record in the Oregon Highway Department between Coquille and the Oregon-California line.

On U. S. 99, however, more counts were taken, and I have included the counts on the highway from the highly populous areas. The figures taken in 1939 are quite similar to figures shown in the Highway Department's 1936 and 1937 counts, insofar as comparisons between the two routes are concerned.

Those counts also showed considerable more traffic on U. S. 99 than on U. S. 101.

The figures shown here in Oregon are average daily year around figures, whereas the counts at all stations shown in California are for the date, July 17, 1939, which was on a Monday. Here is included the counts that were taken at points of approximately the same size or degree of importance on the two routes and, as the figures show, traffic is heavier on 99.

One thing in favor of the coast route is that during the part of the year when the weather conditions might normally be expected to be less favorable, there is considerably less traffic on the coast route than on the inland route.

For instance, in January the count on 101 was 412 vehicles per day as compared to 1,040 on Highway 99. In the summer
2445 months when the traffic is heavier on 101, operating conditions were likewise at their best.

Q. Do your schedules pass through the redwoods at night or in the daytime?

A. At night.

Mr. SCHAFER. I will ask that Exhibit No. 68 be admitted in evidence.

Chairman TERRIL. Any objection?

It will be received in evidence and marked with that number.

(Exhibit 68, Witness Weisler, received in evidence.)

By Mr. SCHAFER:

Q. You heard the witness for the Railway Express Agency, who was in the business 32 years, make a statement as to the meaning of the abbreviation "D. C. L." on the guide which he had with him?

A. Yes.

Q. And you have had some traffic experience. Are you familiar with special agency tariffs and guides?

A. Yes; I am.

Q. Is there any confusion in your mind as to the meaning of the abbreviation of "D. C. L."?

A. No. It is a very simple phrase. It means "Delivery within corporate limits" of the points so designated.

Q. Did you hear the testimony of Mr. Calloway of the Cascade Fast Freight to the effect that his business out of San Francisco was such that he proposes to put on a daily
2446 service as soon as certain new equipment is received?

A. Yes.

Q. Have you made an investigation from his gross revenue report to the State of Oregon to determine what volume of business Cascade Fast Freight presently enjoys from the San Francisco Bay area?

A. Yes.

Q. Have you had photostatic copies of those reports made?

A. Yes; I have.

Q. Have you prepared an exhibit from those reports showing the volume from the various points—I should say, the revenue from the various points which Cascade Fast Freight serves?

A. Yes; I prepared such an exhibit.

Q. Is the document I hand you the exhibit to which you refer?

A. Yes.

Mr. SCHAFER. I will ask that it be given a number.

Chairman TERRIL. It will be numbered 69.

(Exhibit 69, Witness Weisler, marked for identification.)

By Mr. SCHAFER:

Q. Is the exhibit self-explanatory, Mr. Weisler?

A. I think the exhibit is self-explanatory.

Mr. IVERS. May we have copies of that exhibit?

Mr. SCHAFER. Yes. Pardon me. I thought we had
2447 handed them around.

I will offer Exhibit No. 69.

The WITNESS. You asked me to explain the exhibit?

Mr. SCHAFER. No. I asked if it was self-explanatory

Chairman TERRIL. Any objection?

Mr. BEROL. No objection.

Chairman TERRIL. The exhibit will now be received in evidence and marked 69.

(Exhibit 69, Witness Weisler, received in evidence.)

By Mr. SCHAFER:

Q. You have heard the testimony of protestants in this case to the effect that they actively solicit business at the principal intermediate points between San Francisco and Portland, Oregon, and Seattle, Washington?

A. Yes.

Q. Have you investigated to determine how shippers located at the various towns intermediate might locate the through Seattle lines claiming to serve them?

A. Yes. I investigated to see if they could be found in the telephone directories of the various towns, that is, mostly the larger towns on the route.

Q. What did you learn?

A. I found that Los Angeles-Seattle Motor Express, for instance, is not listed in the telephone directory in Salem, Oregon, a town of 30,000 population; nor in Albany, or Corvallis,
2448 Oregon; nor in Eugene, Oregon, a town with 20,000 population; nor in Roseburg, nor in Medford, a town with 11,000 population; nor in Redding, California; nor in Sacramento, a town of 105 thousand population; nor in Stockton, a town with 54,000; nor in Fresno, a town of 60,000 population; nor in Bakersfield, a town of 28,000; nor in Oakland, a city of 305,000.

They are listed in the directories in Seattle, Tacoma, Portland, San Francisco, and Los Angeles.

Q. Did you determine how long they have had a phone listing in San Francisco?

A. They had no listing in the San Francisco directories issued in May 1939, nor the previous issue of August 1938.

The first appearance, I believe, in the San Francisco directory was in the February issue of 1940. But there is none in Oakland at the present time.

Q. What other carriers did you investigate?

A. Colletti Fast Freight has a listing only in Seattle, Portland, Oakland, and Los Angeles.

Pacific Refgrigerated Motor Lines have telephone listings only in Seattle and Los Angeles.

The Cascade Fast Freight is listed in Portland, San Francisco and Los Angeles.

Q. Have you made a study of the operating time of the Pacific Greyhound Bus Company over U. S. 101 as compared with U. S. 99?

2449 A. Yes; I have.

Q. Between what points?

A. Between San Francisco and Marshfield on Highway 101 and between San Francisco and Yoncalla, Oregon, on Highways 40 and 99.

Chairman TERRIL. The exhibit that is being passed around at this time will be marked No. 70 for identification.

(Exhibit 70, Witness Weisler, marked for identification.)

By Mr. SCHAFER:

Q. Will you explain the exhibit, please?

A. Well, I think under U. S. 101 there it is self-explanatory. I have shown the total elapsed time in that schedule which leaves San Francisco at 10:10 p. m. daily, operating through the night on this end of the operation.

I established the fact that they have—that two hours and 33 minutes are consumed in scheduled regular stops. The regular stops on that route consume time but not—consuming—the two hours and 33 minutes shows 13 regular stops. There are 26 regular stops for which the time is not shown, and there are 39 flag stops on that route. The total distance is 540 miles, and the average miles per hour, taking into consideration no stops at all, would be 29.7 miles per hour. The average running time after deducting these two hours and 33 minutes, but not allowing for any other stops at all would give an average of 34.6 miles per hour.

2450 Now, in selecting Yoncalla, Oregon, as a comparison on route No. 99, I took Yoncalla because it was 546 miles from Portland——

Chairman TERRIL. From Portland or San Francisco?

The WITNESS. Pardon me. From San Francisco—546 miles because it happened to be the town closest to the 540 mile figure used on Highway 101.

In the case of the 99, route 99 trip leaving San Francisco at 6:45 p. m. daily, the total elapsed time in that schedule is 17 hours 31 minutes.

Chairman TERRIL. Is not the other explanation similar to that?

The WITNESS. I think it is. But I might call attention to the fact that there are more regular scheduled stops on 101 and more flag stops on 101 than on 99, and yet the average miles per hour on 99 is only 1.3 miles per hour faster than the coast route.

Mr. SCHAFER. I offer Exhibit No. 70 in evidence.

Mr. BEROL. No objection.

Chairman TERRIL. It will be received in evidence and marked No. 70 in this matter.

(Exhibit 70, Witness Weisler, received in evidence.)

Mr. SCHAFER. You may cross-examine.

Chairman TERRIL. Any cross-examination?

Mr. IVERS. There is one question, Mr. Weisler.

2451 Cross-examination by Mr. IVERS:

Q. Referring to your Exhibit 67, is that computation of 28.5 miles affected by grades 3 percent or more, 500 feet long or more, your own computation?

A. Oh, no; that is not mine. That information was furnished by the Highway Commission of California and Oregon.

Mr. SCHAFER. Do you have——

The WITNESS. I have the figures which they gave.

Mr. IVERS. Well, that is all I wanted to know, whether it was your computation.

The WITNESS. No.

By Mr. IVERS:

Q. Now, referring to your Exhibit 69, just one more question, I would like to know when $220.01 become nothing?

A. Pardon me?

Q. Would you refer to your Exhibit 69?

A. Oh, oh. Well, that was less than one-tenth of one percent.

Mr. IVERS. Oh, I see. That is all.

Chairman TERRIL. Anything further of this witness?

You are excused, Mr. Weisler.

(Witness excused.)

Mr. SCHAFER. I wonder if it would be appropriate to fasten letters from the Division of Highways and the Oregon State Highway Commission to the exhibit which goes to the Commission?

2452 Chairman TERRIL. Off the record.

(Discussion outside the record.)

Chairman TERRIL. Any further witnesses, Mr. Schafer?

Mr. SCHAFER. No; I have no further witnesses.

Mr. ELLIS. Before the record is closed——

Chairman TERRIL. We are not closing the record.

Mr. ELLIS. I have a very brief statement to make.

During the course of the afternoon I was charged with manifest unfairness in failing to have advised counsel for Consolidated of my intention to call a witness to give rebuttal testimony on a subject involving the finances and the financial statement of Consolidated Freightways.

In answering what I then felt to be a groundless accusation, I reminded counsel—and I believe it went off the record—of having

overheard a conversation to the effect that that particular witness and Mrs. Schafer had gone to the Fair during the course of this hearing last month together.

I fear—and counsel has called my attention to the fact—that there may be an element of unfairness in the language which I used in that it may imply that the Schafers and the witness and his family were old family friends.

I had no such intention. I had merely overheard a conversation between Mr. Schafer and Mr. Buell concerning a visit to the Fair by Mr. Schafer's sister, Mrs. Pierce and, I think, others on the occasion of the last hearing.

2453 I have merely repeated to indicate my firm belief that counsel did know that the witness was here and intended to testify, as was my belief.

I am informed by Mr. Schafer since that he even had no knowledge of the fact concerning the trip to the Fair, that he had no previous acquaintance with Mr. Buell, although he had met him.

I do not want to leave on the record any unfair statement or statement that may be misunderstood.

Chairman TERRIL. I take it that is——

Mr. BEROL. If the Examiner and the members of the Board please, insofar as the applicant, the Oregon-Nevada-California Fast Freight is concerned, we are, unless the Examiner and the members of the Board feel it would be helpful to have briefs filed in the matter, in the absence of such a feeling on the part of the Examiner and the Joint Board, willing to waive briefs.

Chairman TERRIL. May I hear an expression from other counsel in the matter of the Oregon-California Fast Freight application?

Mr. IVERS. Well, before any protestants make a statement in that case, I should like to know whether counsel for the applicant in the Consolidated case is prepared to make the same waiver?

Chairman TERRIL. We will necessarily show that on the

2454 Consolidated record.

We may go off the record while you discuss it, if you care to.

(Discussion outside the record.)

Chairman TERRIL. The Board is prepared to set January 15, as the brief date, provided that briefs are to be filed in either of the applications that we have under consideration.

It is also understood that counsel for the applicant, Consolidated Freightways, will notify all the interested parties after the conclusion of the hearing in Portland, as to whether or not he elects to file a brief in the matter.

Mr. SCHAFER. That is agreed.

Chairman TERRIL. So that they may be advised.

We are now prepared to adjourn and do adjourn this hearing, the application of the Oregon-Nevada-California Fast Freight, MC-9115, Sub No. 1, to the Multnomah Hotel, Portland, Oregon, on October 31st at 3:00 p. m. for the hearing of testimony, as hereinbefore specified.

Mr. IVERS. That is on the O. N. C. record?

Chairman TERRIL. At the Multnomah Hotel in Portland, and in that case we stand adjourned.

The record will show that we adjourn in the matter at 11:59 p. m. on Saturday, October 19.

(Whereupon, at 1:15 a. m., October 20, 1940, an adjournment was taken to October 31, 1940, at Portland, Oregon.)

2456

STUDIO ROOM.
MULTNOMAH HOTEL,
Portland, Oregon, October 31, 1940.

Before Joint Board No. 5, composed of Chairman C. T. Terril, representing the Public Utilities Commissioner of Oregon; the representatives from the States of Washington and California not being present.

Present, also, H. L. Hanback, Examiner for the Interstate Commerce Commission.

Hearing continued, pursuant to adjournment. 3:00 P. M.

Appearances: (As heretofore noted.)

PROCEEDINGS

Chairman TERRIL. This matter comes on for continued hearing from San Francisco on October 19, 1940, Docket No. MC 9115, Sub. No. 1, which was adjourned to the Multnomah Hotel, Portland, Oregon, at this time.

This continuation was made to this place to allow the cross-examination of the witness Buell, one of the witnesses for the Protestants; and also for the production of such rebuttal
2457 testimony as the applicant in the Consolidated Freightways Case may deem necessary, and the testimony offered by Mr. Buell is offered for no other purpose. The sole purpose of the continuation of this hearing is for the receipt of this testimony, and for none other.

It is also understood that the testimony as here given under the application of the Oregon-Nevada-California Fast Freight, Inc., will be considered a part of the record in the Consolidated Freightways case, by reference, and made applicable in the Consolidated Freightways case as though actually physically incorporated into the record.

This matter comes on for hearing before Joint Board No. 5, consisting of the representatives of the States of California, Wash-

ington and Oregon; the members from the States of California and Washington being unavoidably absent; the state of Oregon being represented by C. T. Terril, Attorney-Examiner for the Public Utilities Commissioner of Oregon; and the Interstate Commerce Commission being represented by H. L. Hanback, Examiner, to assist the Joint Board in the development of the record, and to advise the Joint Board.

Are you ready to proceed with the cross-examination of Mr. Buell?

Mr. SCHAFER. I had forgotten that I had planned to cross-examine Mr. Buell; I planned to have Mr. James testify in rebuttal to Mr. Buell's testimony, and I think that Mr. James is pre-
2458 pared to do that at this time. He is prepared to rebut the testimony of Mr. Buell given in San Francisco.

Chairman TERRIL. You have no cross-examination of the witness Buell at this time, then, Mr. Schafer?

Mr. SCHAFER. No.

Mr. ELLIS. Let the record show that Mr. Buell is present for cross-examination.

Chairman TERRIL. Would you like to have the record show at this time that you waive cross-examination of Mr. Buell?

Mr. SCHAFER. Yes. I will call Mr. James.

LELAND JAMES was sworn and testified as follows:

Direct examination by Mr. SCHAFER:

Q. Your name is Leland James?

A. That is correct.

Q. Have you previously testified in this case?

A. I have testified in the Consolidated Case, but I have not testified in the Oregon-Nevada-California Fast Freight case.

Q. You are the president of the Consolidated Freightways?

A. Yes.

Q. You have read the testimony which Mr. Buell gave at San Francisco on October 19th?

A. Yes; I have.

Q. Have you any general statement to make to meet the testimony of Mr. Buell?

A. Yes; I have.

2459 Q. You may proceed.

A. From a reading of the transcript, I find that——

Mr. FARRENS. I think that this should be developed by questions and answers, so that if objectionable questions are asked the protestants will have a change to object. I remember when I was on the witness stand, they made me ask myself questions and answer them.

Mr. SCHAFER. Well, I am not prepared to ask questions. I have not read the testimony of Mr. Buell, myself, and Mr. James will confine himself, I am sure, to meeting the representations of Mr. Buell, and any time he branches out beyond that you have the right to object.

Mr. FARRENS. Well, you can't unring a bell.

Mr. SCHAFER. Well, that is a jury rule, and I think that this Joint Board can be trusted to unring the bell if any testimony is put in that is not proper.

Chairman TERRIL. I think, with the understanding that counsel are free to interrupt, the testimony may proceed. If it is objectionable, it may be stricken from the record. Proceed, Mr. James.

A. (Continuing.) From a reading of the transcript, I find that Mr. Buell has attempted to define and set forth what he terms the net working capital of our company, and to make a comparison between the net working capital as shown by our December 31, 1938, statement with the net working capital
2460 as shown on December 31, 1939. I take exception to Mr. Buell's analysis of the net working capital. His analysis of net working capital as applied to a mercantile establishment is quite correct, but not as applied to a truck transportation company, as indicated. In a mercantile establishment, in determining the net working capital, you give credit for its cash and working funds, and for its receivables, and for supplies of merchandise that it has on hand, and you charge it with the accounts it owes, the notes payable, due within one year, and other current liabilities. The difference between a mercantile statement and a transportation statement is that the mercantile house gets credit on its current assets for the stock on hand and is charged with what it has on hand that is not paid for—in other words, what it owes on the stock on hand. The stock on hand in the transportation business is the vehicles. Ours is the process of buying vehicles and selling them through their use to our customers. It is not customary in the transportation business to set those vehicles up as stock on hand; if that was done, our statement would be comparable to a mercantile statement, and if that was done, we would also charge ourselves with any amounts owing on those vehicles; but not having taken credit for the vehicles in our current assets, it is unfair to charge the current position of the company with the amount that is owing on those vehicles. The Interstate Commerce Commission's own Rules of Accounting prescribe that you do not set up
2461 into the current assets position what is owing on equipment.

Mr. FARRENS. Just a minute. I object to the statement of the witness as to what the Interstate Commerce Commission's

rules provide. The rules are the best evidence. I move to strike the witness' statement.

Mr. SCHAFER. May I further qualify Mr. James?

Mr. FARRENS. It is not a question of qualification; it is a question of the best evidence. The rules are the best evidence.

Mr. SCHAFER. It seems to me that the Joint Board can take judicial knowledge of those rules.

Chairman TERRIL. I believe the Commission and the Co can take judicial knowledge as to what the rules of that body are, and therefore the testimony of the witness would not be necessary to be given, nor would it serve any useful purpose before this Joint Board.

The WITNESS. Might I state that, in making our statement in accordance with the rules of the Interstate Commerce Commission, it is not customary to set up into current asset position our vehicles, nor is it customary to set up under current liabilities the amount of money owing on vehicles.

By Mr. SCHAFER:

Q. I might ask you, further, in that regard: you say it is not customary, Mr. James, but I will ask you whether you comply with the requirements of the Interstate Commerce Commission as to accounting?

2462 A. We do.

Q. In so complying, how do you set up your assets, as you have just described it?

A. In so complying, we do not take credit in current assets for the value of our vehicles, or any vehicles used in the business; neither do we charge ourselves with any current liabilities, in current liabilities—with any monies owing for those vehicles.

Q. All right, proceed.

A. I have found from experience, and I have ascertained by the knowledge which you get from reading the statements of many other transportation agencies, that the working capital of a transportation agency is quite adequate when it has a 1 to 1 relationship between current assets and current liabilities, when the value of the equipment is not thrown into current assets and when what is owing on equipment is not thrown into current liabilities.

Referring to Mr. Buell's testimony, and Exhibit No. 64, he points out that as of December 31, 1939, the cash and working funds of our company showed an overdraft of $27,519.91. In explanation of that apparent overdraft, I wish to say that in 1939 the statement was made up on the basis of a ruling of the Local Representative of the Auditing Department of the Interstate Commerce Commission, who said that drafts issued by agents were chargeable against working funds before those drafts

2463 were picked up by a check that was issued by the treasurer.

Since that time, that ruling has been reversed by the Washington office. It makes a very large difference, because actually as of December 31, 1939, the total actual cash in the bank was $21,494.53, and the drafts outstanding, which had not been picked up by our agents—which had not been picked up by our treasurer—were $148,779.92.

In one part of Mr. Buell's testimony he leaves the inference that we have set up in our materials and supplies account tires that may be in use on road equipment. That is not true. Tires that were in use on road equipment are not set up in that account.

On page 2 of Exhibit 64, he has made a comparison of net working capital as disclosed by the statement of December 31, 1938, and as disclosed by the statement of December 31, 1939. He has in those statements shown that, according to our figures, our net working deficit in 1938 was $11,883.39, and he states that we should have been charged with payments due on the equipment maturing within one year, or making a net working deficit of $75,605.97. I have already stated that the charge of $63,722.58 should not have been made, because it is not in accordance with the rules of accounting before the Commission.

In the statement of December 31, 1939, he shows a net working deficit, according to our figures, of $49,618.69, but he fails to take into account, in arriving at that amount, the fact that our prepay account as of December 1, 1939, had increased to the
2464 figure of $44,911.55. That was caused by the fact that, as of December 31, 1939, we issued drafts in payment of license fees which were not due until January 1st. In the previous year, those drafts were issued in the year in which the expense occurred, but in this year, we have anticipated a payment, and paid out $44,000 before the first of the year.

So, if you will deduct the $44,000 from his figure of $49.618 you should find a net deficit of $4.407.69 as of December 31, 1939, against $11,883.37 as of the previous year.

In other words, instead of being an increase in net capital—net capital working deficit, there was a decrease in the deficit; we were actually $7,000 better off. These figures of $11,000 and $4,000, neither one, are alarming, as long as you get an approximate 1 to 1 relationship in this business, because we don't have an awful lot of receivables out, and you will find your company in the position to operate.

To enlarge upon that, the total current assets in 1938 were $305,000, and total current liabilities of $317,000, which would require $11,000 additional to make a strictly 1 to 1 relationship. It was just $11,000 less than a 1 to 1 relationship, which is a little less than 4 percent off.

In 1939, when our current assets were $280,000 and current liabilities were $330,000, then we had $49,000 difference—we had a $49,000 net working deficit, if we did not take credit of this charge of $44,000, which we should have taken credit for;
2465 however, in reality, taking credit for that $44,000 which should be charged against the following year, in reality there was a net working deficit of $4,000 some odd dollars on current assets of $280,000, or less than 2 percent.

But either one of those relationships are O. K.; they are practical; you can operate a company practically on those relationships.

In discussing our activities in the current year, Mr. Buell states that in the five months' operating period there had already been charged $110,710.18 investment in fixed assets; that is only partially true. That increase is in trucks and in buildings which we are considering as fixed assets; but his analysis does not take into consideration the increase in gross income as the result of those increases in trucks.

We are coming back to the mercantile establishment comparison; as you do more business, you must have more stock on hand. In our business, as we do more business, we must have more vehicles on hand; we must have more merchandise to sell our customers.

He also makes the statement that by checking orders through 1939 and 1940, in which the orders disclose the number of pieces of equipment that we had pledged as security, that it indicated that a very large percentage of our equipment was hypothecated. That is not true. A good deal will depend on your interpretation as to what a large percentage of the equipment would be.
2466 He also makes the statement, in speaking of the advisability of our making increased investments—he said, "I believe that truck equipment is a serious matter, because it requires payment within a comparatively short time." The actual period of time in the purchase of equipment is a three-year period. It would be up to the Commission to determine whether or not that was a short period, or a long period.

Then, the other important item which Mr. Buell does not mention at all is the credit of the company. Our principal sources of credit are the banks with whom we do business, and two stockholders from whom we have from time to time borrowed money. The banks we do business with are the following: the First National Bank of Portland; Peoples National Bank of Seattle; First National Bank of Seattle; Puget Sound National Bank of Tacoma; First National Bank of Billings; Northwestern National Bank of Minneapolis, and the Anglo-California National Bank of San Francisco. We have arranged credits with them which

have been secured by a course of dealing over a period of time that amounts to in excess of $350,000. At the present time, as of November 1, 1940, we owe those banks a total of $19,000.

The stockholders' source of our credit is in Mr. George Youell and George Youell, Inc., who is the largest single stockholder in our company. As of November 1st, we owe them $66,500.
2467 We have owed them as high as $160,000. The third largest stockholder in our company is Mr. Peake. At the present time, we owe Mr. Peake $25,000, and we have owed him as high as $75,000.

And those unused sources of credit, as far as we know, are available to us, should we find it necessary to use them.

I believe that is all I have.

Q. Why don't you borrow from your available sources of credit to bring your current position up to what Mr. Buell thinks it should be?

A. Because, from a practical standpoint, we have found that we could carry on on the 1 to 1 relationship figure in current assets, the items that we figured current assets and the items in current liabilities that we figure in current liabilities. If we did borrow, we would be paying interest merely on money that we did not need.

Mr. SCHAFER. You may cross-examine.

Cross-examination by Mr. FARRENS:

Q. Do any of your creditors whom you have mentioned in your sources of credit insist upon including in your current liabilities, the funded debt payments which fall due within the year?

A. In making the statement to the bank—in borrowing from the banks—you make a statement, and they take that statement and translate it on their own form for the purpose of analysis.
I can't tell you how they handle it, but I could give you my
2468 ideas on how they handle it. They take into consideration not only your current assets, but also your deferred assets, and really give you credit for the depreciation and charge that off for the 12 months.

Q. Don't you know, Mr. James, the banks, in figuring credit include among your current liabilities this funded debt payment, or those funded debt payments which fall due within the year?

A. I don't know that, but I think it is true.

Q. Is there an officer in your company by the name of Bennett?

A. Yes.

Q. What is his full name?

A. O. C. Bennett.

Q. What position does he hold with the company?

A. He is my assistant.

Q. He has had accounting experience, hasn't he?

A. Yes.

Q. And he testified for your company this month in San Francisco in connection with the application of your company to acquire the Reymer Truck Line; isn't that a fact?

A. Yes.

Q. Among other things that he testified to there, he testified in relation to some statement or testimony which Mr. Buell gave?

A. I don't know; I was not there.

Q. Do you know?

2469 A. No; I don't know.

Q. If Mr. Bennett in that case testified that it was universal banking practice, followed by the banks with whom you have lines of credit, to include in your current liabilities those funded debts which fall payable within a year, are you ready to accept that testimony as correct?

A. Oh, Paul, my statement is just the same as it was. I believe that the banks do that, but I have not been there when they have translated our statement into their forms. But, for practical purposes, I believe that they do take into consideration the amount of payments you have to make within a year in determining your ability to repay the loan. That is not the only consideration, however. They take into consideration the amount of your income and the amount of your fixed assets; they do not merely read above the line, or below the line, but they read both above and below the line.

Q. These banks concerning which you testified, let us refer to them for a moment. Isn't it a fact that in every such instance of bank credit, the extent of the credit extended to you is the ability of your company to furnish collateral security for your loans?

A. That is correct. We have made a practice from the beginning of furnishing collateral security on all of our loans.

Q. What is the ratio of the book value of the collateral security to the amount borrowed, which is demanded by the banking concerns?

2470 A. We don't have any relation to our book value; we have an arbitrary agreement that we borrow up to $2,500 on a truck and trailer which has originally cost us in excess of $10,000.

Q. Then, isn't it a fact that the real limit upon your bank credit is not the aggregate of $350,000, which you mentioned, but is dependent upon whether you can furnish collateral security up to that amount?

A. That is correct.

Q. If Mr. Bennett testified in San Francisco this month, in your Reymer Truck Line acquisition, that the reason your company

could get by on this low working capital is because it can use its depreciation reserves to supplement its current assets; can you not agree with that?

A. Will you repeat that question, please?

(Question read.)

A. If I understand that correctly, I agree with that perfectly.

Q. Does Mr. Youell and his company demand collateral for their loans?

A. We have worked it both ways.

Q. What is the general practice?

A. I believe it is without collateral. It has worked both ways.

Q. Does Mr. Peake demand collateral?

A. We have worked that both ways.

Q. What is the practice?

2471 A. The present loan of $25,000 is secured.

Q. If Mr. Bennett in the hearing in San Francisco, which I have mentioned several times, testified that the Youell loans and the Peake loans were all secured by collateral would you disagree with that testimony?

A. Yes; because one Youell loan is secured by collateral, and the other is not.

Q. What is the Youell loan that is unsecured by collateral?

A. The Youell Company, Inc. There is a loan of $30,000 which is without collateral. To the best of my knowledge, that is unsecured; and there is a loan of, or an obligation to George Youell in the sum of $36,500, which is secured.

Q. Of course, Mr. Bennett was not testifying as of November 1st, because that testimony was given earlier in the month. When was this Youell, Inc. loan made?

A. I don't know; it has been running for quite a while.

Q. If you were to ask Mr. Youell or Youell, Inc. for a loan up as high as $150,000 which you say the company has owed him at times, would you expect your company to be compelled by Mr. Youell or his company to furnish collateral for such a sized loan?

A. Oh, Mr. Youell is a very large stockholder in the company; whether he would require security or not, I don't know. I would say that during the very tough time in 1932, when he had the largest amount of loans to the company, it was practically

2472 without security.

Q. If the Company had collateral, he would demand it, wouldn't he?

A. I couldn't testify to that. I am willing to go along on the statement that the limit of our borrowing power is the amount we can secure with equipment, because we have adequate equipment to secure everybody.

Q. When you say "to secure everybody," for how much?

A. For how much?

Q. On this basis of collateral which you describe?

A. For any reasonable demands of the company for working capital.

Q. Within what limits would you regard the demand as reasonable?

A. Well, Paul, I don't know as I can answer that. I don't know that I can state what the demand for working capital might be. However, our experience has taught us that we need to keep the 1 to 1 relation, and as long as income was enough in excess of the outgo so that the payments could be made by the difference, then it is not necessary to do any borrowing whatsoever.

In the wintertime, when income drops down, in those periods it is necessary to borrow. This year we are borrowing $100,000 to take care of the months of December, January, February, and March. We could borrow $200,000 but our judgment tells us that we only need to borrow $100,000. Maybe I will miss it; I have missed it before. If I do, I will have to go back to get authority to borrow some more; but I would not borrow $200,000
2473 and just leave it in the bank to pay interest on.

Q. You are right at the end of the summer season now?

A. That is correct.

Q. I assume the company is getting at the low ebb of its borrowing requirements?

A. No; that would not be true.

Q. What I mean, the company is at the upswing for the necessity for borrowing: is that correct?

A. Yes; we expect to borrow in the month of November—we are asking for authority to borrow $100,000 for the winter months. We expect that to carry us through. We expect to borrow in November, $50,000, and $50,000 for December. The $50,000 borrowed for November will be for the purpose of bringing up to date accounts which have slipped into the past due status. The $50,000 for the month of December will be borrowed for the purpose of paying license fees, and the like.

Q. Both of those items of $50,000 each are to be used to add to the working capital?

A. That is right.

Mr. FARRENS. That is all.

Cross-examination by Mr. ELLIS:

Q. I understand you do have in the neighborhood of $50,000 of accounts that have slipped into the past due condition?

A. I didn't testify to that; I couldn't tell you how many
2474 accounts are in that position; I would not say it was in that amount, but there are some accounts at the present time that

are over 30 days old. Even on some of those accounts, the original terms upon which they were arranged were in excess of 30 days.

Q. Have you found it necessary during recent years to satisfy or protect creditors who have such past due accounts by pledging any of the stock of your company as security?

A. No.

Q. Have you ever had occasion to issue any stock to creditors in lieu of payment in cash?

A. No.

Q. To be specific, have you ever taken care of any account of the Standard Oil Company or any of the major oil companies by any other means than by cash payments?

A. By no other means than by cash payments. Those particular accounts are settled on a weekly basis; they don't even go 30 days.

Q. Is it not a fact that at times during recent years you have owed the major oil companies upwards of $50,000 for gasoline, oil and supplies at one time?

A. I don't know what you are getting at. Our fuel bill per month runs pretty high. Our principal purchases we try to pay on a weekly basis, not because it is required, but because we do not want the bills to get too high. There are some that we do
2475 not pay on a weekly basis, but I could not say definitely that we do not owe $50.000 on fuel oils and gasoline; but I can say that none are past due.

Q. But you can't say that you have never pledged or issued any stock to pay off these bills?

A. I can say very definitely that we have not.

Q. Have any of the oil companies placed your company on a weekly basis?

A. In 1932, the Shell Oil Company placed us on a C. O. D. basis. During the same period, the Standard Oil Company had us on a weekly basis, or possibly a monthly basis; but since that time, no oil company has dictated the terms of payment, that I know of.

Q. You mean, you don't know that any company has dictated the terms of payment since that time?

A. That is correct.

Q. You questioned Mr. Buell's statement that a large percentage of your equipment is hypothecated. You say that is not true. Can you tell us what percentage of your equipment is hypothecated or encumbered; I mean, the percentage in value that is encumbered or has any encumbrance against it?

A. I presume, in his testimony, he was talking about the present time; and in looking over this, I find that as of November 1st, we owed the Puget Sound National Bank $19,000, and I know they have ten pieces of equipment; and that is ten trucks. I
2476 know we owe Mr. Peake $25,000, and on that alone we have

ten pieces of equipment hypothecated. On the loan to Mr. George Youell of $36,500, there are 20 pieces hypothecated. That is a total of 40 out of 120.

Q. Are any of the balance being purchased on time payment contracts?

A. Yes. New equipment coming into the company is bought on a time payment contract basis, but that is not included in this group of 120 trucks I am discussing. We have recently added two trucks at Billings, two trucks at Portland, and we have signed a contract on two tractors at Minneapolis. Those are all bought on conditional sales contracts; and the same thing applies to the small trucks. And while we operate only 120 large pieces of equipment, plus the recent additions to the fleet, we do operate several hundreds of small pieces of equipment. They are never used for the purposes of remortgaging. We buy them in the first place on a conditional sales contract; our present arrangement provides that equipment under $1500 shall be on a 12-months' basis of payment, and any equipment over that amount runs for 24 months.

Q. But you cannot tell us what percentage relationship your borrowings on equipment, on your conditional sales contracts on equipment, bear to the total present book value of your equipment?

A. To the present book value?

2477 Q. Yes.

A. There, you are getting into a lot of factors, because a lot of that equipment is charged off. No; I cannot.

Q. Can you tell me if it is true that the dollar value of the 40 trucks which you say are pledged is greater than that of the remaining 80?

A. No; I couldn't tell you. For our purposes, the value of one truck is almost as high as the value of any other truck; the only difference would be the three-axle trucks are of greater value than the 2-axle trucks. That is, as far as the value to the company is concerned. The equipment does not depreciate out because of our system of maintenance, under which we install new units, such as motors or compressors or other needs as long as it is economical to do so.

Q. As security for loans, however, isn't it true that your unused equipment is much more desirable from a security standpoint?

A. What do you mean, unused equipment?

Q. Well, what I meant was newer equipment, equipment that has not been used, or used very little.

A. Yes; in buying new equipment, we pay one fourth in cash, and string the other three-fourths along on a three-year basis. In borrowing on a truck, we only borrow $2,500. In the first instance, you might say we borrow $7,500 on a $10,000 vehicle.

2478 because that is under a conditional sales contract that extends over a period of three years.

Q. You have apparently approved Mr. Buell's method of analysis for use in connection with a mercantile firm. I am wondering whether your approval would go to the 1 to 1 ratio method as well?

A. No. In a mercantile business, where they take credit for the merchandise on hand and charge what they owe on it, they should have a better relationship than that.

Q. A 2 to 1 relationship is generally acceptable?

A. I think that it should be even a little higher than that.

Q. Now, with respect to your proposal to eliminate from current liabilities, payments on equipment due within a year, I would like to ask from what source those payments are to be made?

A. The payments on equipment are made by the difference between the income and the outgo.

Q. And they are made, normally, at the present time, monthly?

A. Yes.

Q. And in that respect they are identical, are they not, with any other current obligation which you would have to pay for, such as tires, gasoline, or anything that would go into the operation of the company?

A. Yes; that is correct, Mr. Ellis. The distinguishing feature or the difference between this and the mercantile business—you will notice that I was particular in saying the difference between income and outgo, because, even if you should operate on a break-even basis, there would be a difference between income

2479 and outgo, because of depreciation. That is, on the trucks that you are selling to the public

Q. You are not questioning the fact that you will have, on a monthly basis, within a year, all the sums which Mr. Buell has said were current obligations to be paid within a year?

A. That is correct. We set them up and ascertain how much a month we owe, and we estimate the income and estimate the outgo.

Mr. ELLIS. That is all.

Redirect examination by Mr. SCHAFER:

Q. I would like to ask a question to clarify one point that has been brought out concerning the limitation on the bank credit and the arbitrary amount of $2,500 that you have discussed. Can you state what the arbitrary basis of $2,500 bears to the actual value, or have you ever had any opportunity to test out the soundness of your arbitrary valuation?

A. No. We arrived at that figure, and it seemed to be satisfactory to both parties, and we just took it. I think, in some cases,

it is in excess of the actual book value, and in some cases it is very low.

Q. Has your equipment ever been appraised?

A. Yes; it has been appraised.

Q. Will you state the circumstances?

A. Well, a couple of years ago—I guess it was longer than that—I guess it was three years ago—we were contemplat-
2480 ing a Federal Reserve Loan, and in the course of making the application for the loan, the banks who were participating in that loan had some independent appraisers checking the value of the equipment, and at that time they found——

Mr. FARRENS. I will object to that as hearsay testimony. The appraiser is not here for cross-examination so that we could not determine from a mere statement of the witness, the actual basis upon which the appraisal was made. If such testimony is to be admitted into this record, I insist that the appraiser be here so that we can cross-examine him to determine just what factors went into that appraisal.

Mr. ELLIS. The appraisal, in any event, would not have anything to do or have any bearing on the present current value.

Chairman TERRIL. I don't think it would serve any useful purpose, and, especially, in view of the fact that the appraiser is not here for cross-examination.

Mr. SCHAFER. If I may be heard on this matter: The appraisal was made, and that is a fact within the knowledge of the witness. And, further, it bears a reasonable relation to the value of the equipment which is here being challenged, which was brought up on cross-examination.

Mr. ELLIS. He said that it was 2½ or 3 years ago, as I recall his statement. You can wear the equipment out in that period of time.

The WITNESS. No; you can't; not the way we keep it up.

2481 Mr. SCHAFER. The purpose was to demonstrate the soundness of the depreciation methods.

Mr. FARRENS. Nobody has questioned the depreciations made in this cross-examination, and nobody has questioned the propriety of the $2,500 per unit as a collateral security basis for the loans.

Chairman TERRIL. You don't have, Mr. James, any present appraisal value on this equipment?

The WITNESS. No.

Chairman TERRIL. Or one that has been made under your direction or supervision within the past six months or a year?

The WITNESS. No.

Chairman TERRIL. I think that is rather remote.

Mr. SCHAFER. That is all.

Mr. FARRENS. I have no more questions.

Chairman TERRIL. You may be excused, Mr. James.

(Witness excused.)

Mr. ELLIS. I will call Mr. Buell to the stand in rebuttal of Mr. James' testimony.

Chairman TERRIL. The record will show that Mr. Buell, now called to the stand, was previously sworn in this matter.

S. D. BUELL, previously sworn, was examined and testified as follows:

Direct examination by Mr. ELLIS:

2482 Q. Mr. Buell, Mr. James has just questioned your previous testimony to the effect that a large part of the equipment of the Consolidated Freightways was hypothecated. Do you have any facts on which to support such a statement?

A. Yes. I questioned that, with a reasonable amount of facts on hand. I took the December 31, 1939, statement, and—incidentally, when one tries to make an analysis of a company's condition, you can't be first considering one period of time and then considering another, but you have to do it at one time, and put it into one package. In other words, the relationships between the various accounts change from time to time, and you must take them as they exist at one certain time, or one certain date. We took the December 31, 1939, statement, as it was on file with the Public Utilities Commissioner of Oregon; and the orders that had been issued in connection with loans, and we tabulated the number of pieces of equipment that had been mentioned in the orders as being security for the loans.

Q. Interstate Commerce Commission orders?

A. Yes; and in two instances, where the loans were large, we estimated the number of pieces, as they were not mentioned. One loan was for $75,000, and we estimated, on the basis of other loans, what the number of pieces of equipment would be. One loan was for $65,410.

Mr. SCHAFER. I will ask that he identify the loan.

The WITNESS. Yes; I will give you the numbers. They were No. 859 and No. 901.

2483 Mr. SCHAFER. We are not able to identify them by I. C. C. numbers.

Chairman TERRIL. Can you identify them by the amounts of the loans?

The WITNESS. Those were taken from the orders of the Commission, as tied up to the balance sheet of December 31, 1939. I have identified the particular loans on the balance sheet as of December 31, 1939.

Mr. SCHAFER. Were they authority to borrow, or actual loans?

The WITNESS. I can tell you that they were actual loans. I can tell you that they were actual loans on December 31, 1939, and I can tell you the original amounts of the loans, and the amounts paid down to that date. For example, on December 31, 1939, the original loan had been $163,000-odd, and that there had been paid $108,793.39.

On those specific loans, which did not include new pieces of equipment, there was $106,668 to apply to other equipment; and we tabulated the number of units that were mentioned in the I. C. C. authority to make those particular loans, and in that tabulation—I presume a unit would mean, if it were a tractor and trailer, 2 units, or if it were a tractor and semi, 2 units—and we tabulated 283. We estimated there were 458 units on hand all told from the equipment schedules shown, and on the basis of 458 pieces of equipment, that was the ground or basis upon which I made the statement that a substantial part of the equipment had been hypothecated.

2484 Q. What was the extent of that item of equipment, in the total?

A. I estimated that 283 pieces out of 458 were covered by these specific ICC authorizations.

Q. How much of that is estimate, and how much is actual?

A. 68 pieces are estimated, and the balance is actual.

Q. Do you trace all of those loans into the December 31, 1939, statement?

A. Yes; they were all traced into the December 31, 1939, statement.

Q. What is the fact as to whether or not you took into account any payments that had been made against those loans?

A. Well, I took into account the payments, but I did not release any equipment until the loan was fully paid.

Q. Do you know whether or not it is possible that some of that equipment might be released from time to time?

A. I assume that a new loan and a new chattel would be made, when that particular thing is undertaken, although there is nothing of that sort in the record.

Q. Now, something was said by Mr. James as to your testimony to the effect that the tires in use on equipment might be set up as inventories and supplies, I believe. Did you make any inclusion for such purpose in your exhibit?

A. No; I did not include it. I simply raised the question that, if they were, it would not present a true picture. I assumed the inventory carried on the statement as truly a

2485 current asset, and said that, to be a truly current asset, it

would have to consist of supplies currently used, and not tires used on road equipment.

Q. What have you to say concerning Mr. James' comments on the use of your method for a mercantile establishment?

A. Mr. James has undoubtedly spoken from experience, as he was once in that business previously, I believe. I will say that a mercantile establishment should require much better than a 1 to 1 ratio; in fact, most of them require better than a 2 to 1 ratio. But I would like to make this statement, that will follow Mr. James' statement. In connection with an explanation of why a trucking company would be in sound financial condition if it had less than a 2-to-1 ratio. Mr. James mentioned that the trucking company does not mercandise and sell to its customers its assets; that is, it does not sell its trucks to its customers, and not having any merchandise to sell, he doesn't have any current asset in merchandise, and therefore it does not require the amount of working capital it otherwise would.

Q. Does the 1 to 1 ratio take that fact into consideration?

A. The 1 to 1 ratio does entirely take that factor into consideraion, and I would like to point out that there are many, many things to consider in connection with working capital, and it is not as easily handled as Mr. James might mention, inasmuch as

any company that has a large amount of money invested in

2486 fixed assets—when I say "fixed assets," I mean in property and equipment and buildings, and those items that are not readily marketable or saleable—one does not have the use of that particular money invested in those assets for working capital purposes. Now, take for example, a factor: No one could argue that the machinery in the factory didn't have its part, its place in building up the product that was sold, and therefore the machinery was being converted into actual working capital from time to time; but that is not considered at all in connection with working capital, because the working capital is that particular portion of the company's capital that is set aside with which to meet its obligations as they are maturing. Now, predication of actual working capital investment is apparently being based upon the theory that there will be a certain amount of profit earned every year, regardless of working conditions, and they forecast a certain amount of profit to meet the obligations falling due within the ensuing year.

Mr. James was commenting upon the November 1st figures, which I do not have available, but I do have the statement which he submitted as Exhibit 1 in his testimony at Medford, Oregon, on October 22, I believe it was—October 21.

Q. And that statement was as of what date?

A. That statement is as of August 31.

Mr. SCHAFER. What are you rebutting? This is not proper rebuttal of the testimony that Mr. James gave.

2487 Mr. ELLIS. It goes to Mr. James' testimony as to the current position of the company, his general statement as to the current position of the company, and his discussion of Mr. Buell's testimony.

Mr. SCHAFER. Mr. Buell did not testify at all about this before, and Mr. James confined his testimony to Mr. Buell's testimony on direct, in rebutting his direct. If we broaden it out and take in the testimony at Medford, it would suit me fine, because there is a much broader presentation of the whole thing in that case.

On the other hand, if we are going to start into the Medford case, it will take a long time, and so far as I am concerned, I would be glad to go into it.

Mr. ELLIS. Mr. James has attempted to discuss the financial condition as of today; in fact, he has jumped ahead of today and taken tomorrow; and it seems to me that anything that could be developed on the company's position today is entirely appropriate.

Mr. SCHAFER. It would be appropriate to cross-examine him on the testimony that he gave. However, I will just wait for a ruling. As a matter of fact, I will waive my objection.

Chairman TERRIL. Thank you. Go ahead.

The WITNESS (continuing). I would like to point out that where the analysis of the net working capital is involved, the remarks made as of November 1st would only be partly ap-

2488 plicable, because we do not have the entire record of the company's financial position at that date. It is known, however, from the Company's statement of August 31, that the net working capital had been reduced to a deficit of $298,237.94, by including in the current liability the equipment obligations maturing in one year, at that particular date. That was $84,471.82 greater deficit than was tabluated on December 31, 1939.

Now, in order to really tell what the net working capital is, one must examine the sources of the funds from which the obligations were met. In this particular statement, it indicated that there had been $215,922.87 increase in fixed assets after taking depreciation. In order to increase those fixed assets, it was necessary to increase the fixed liabilities, because the profit up to that time had not been sufficient to take care of the increase in fixed liabilities. As one embarks upon an expansion program, those particular items are bought and regarded as current liabilities, and they must, of course, be taken into account in forecasting what the result will be as it affects the net working capital; and, in this particular instance, if we were to do that, we would show a retrogression during the next eight months; that the expansion was at a more rapid rate than profits.

In other words, the outgo was a great deal more than the intake. I simply wish to point out here that, in order for Mr. James to give us a complete explanation of what the company's
2489 position is, to show that the position is sound, he should also explain on what basis they forecast the soundness, in view of the fact that the record indicates, over a period of time, the obligations have increased at a more rapid rate than the income could take care of those increased obligations.

By Mr. ELLIS:

Q. Will you tell us what the net deficit is in net working capital as of August 31, 1940?

A. Yes. I would say, including as current liabilities those items falling due within one year, the deficit would be $298,237.94.

Q. Have you followed current or recognized banking practices in determining what you should include in current liabilities?

A. I believe I have. I certainly have had enough contacts with banks in representing clients for loans so that I believe I should know what their practice is; and I can say that I have had some experience in discussing these matters as a client of trucking lines; so I know their attitude in trucking operations. I know what the banks consider. I would like to say, giving Mr. James credit for his remarks, that the banks do consider the earning power of the line. That, I think, should be on the record here, because a bank, in order to make a loan, will go into all the existing circumstances, and they will not ignore the fact that an operation is profitable; but the point I want to bring out is that, not-
2490 withstanding the profitableness or unprofitableness of the operation, if one goes beyond that limit, he is digging into his working capital.

Q. With respect to equipment obligations due within one year, what is the banking practice with reference to such loans?

A. They are considered as current liabilities.

Q. That completes your statement?

A. Yes.

Mr. SCHAFER. Mr. James wishes to cross-examine the witness. I am not very well versed on accounting practices, and Mr. James will cross-examine in my stead.

Chairman TERRIL. As the president of the Consolidated Freightways, he certainly has that right.

Cross-examination by Mr. JAMES:

Q. You said first that the loans that were authorized by the Interstate Commerce Commission, of which you spoke, were authorized in 1939?

A. No; I computed them as of December 31, 1939, and I included in my statement the loans that were on the books as of that date.

Q. How did you go about identifying the amounts showing owing on our books with the authorizations from the Interstate Commerce Commission?

A. By a tabulation of the information on file at the State Public Utility Commissioner's office.

Q. If I told you that we had received authorizations for
2491 loans in 1939, that had already been paid, and that the authorizations are merely reconciled on our books with the procedure prescribed by the Interstate Commerce Commission, would that make any difference in your statement?

A. I don't believe it would.

Q. You say that you positively traced out the authorizations with the balances due?

A. No. I qualified my statement to you that on those 68 units, we estimated those. That is, 68 units out of 283. Those 68 were estimated out of the 283, predicated upon the size of the loans.

Q. Your statement as to the number of pieces of equipment encumbered as of December 31, 1939, is not an accurate statement?

A. I can only say that it is taken from information that was on file with the Public Utilities Commissioner; it is an accurate tabulation of that information.

Q. And if that information is not complete, then your tabulation is faulty?

A. Of course.

Q. If, as I say, some of those authorizations that were secured in 1939 were merely a cleaning up of previous loans to make them legal instead of void, what would you have to say as to that?

A. I think I know what you refer to, and I can say that
2492 these items do not take into account those revisions that were made; these were specific items on loans that were specifically on the books.

Q. Do you think that the banks are using good judgment in lending money to a company such as ours, in the condition you say it is in?

A. You are asking me a fair question. I think that anyone who owns an automobile can go to the bank and get a loan from the bank on the car, whether he has any other assets or not, or regardless of what his financial condition may be—within certain bounds, of course. I think that the bank's judgment is not questioned by the fact that they make the loan when they have 100 percent security for the loan that they make.

Q. And you made the statement that the bank did take into consideration the earning power of a company before making a loan?

A. I did.

Q. Isn't it a true statement to state that the bank, in making a loan, gauges the operator's ability to repay the loan and considers that as a partial factor in making the loan?

A. It depends on the bank's position, and the position that they are in at the time that they make the loan. If they are already into it, that does not become the controlling factor.

If they are in on it cold, on the outside, and are brought into the picture, then the matter is considered coldly by itself.

2493 Q. Have you, in your investigation, found out whether the Consolidated has paid off every obligation on the due date?

A. No.

Q. You didn't think that it was necessary to find that out?

A. As a matter of fact, your information on file with the Public Utilities Commissioner is not complete enough in order to know that; I would have like to have known.

Q. If you did know that it had met all of its obligations on the due date, would you consider that the banks used good judgment in loaning the company money?

Mr. ELLIS. That is objected to as a hypothetical question, not based on knowledge available to the witness.

Mr. SCHAFER. I think that this man is an expert witness. He was put on as an expert witness, and he certainly can testify as to his opinion. That does not go beyond his qualifications.

Chairman TERRIL. I think that the witness can testify, if he knows.

A. I don't want to be at all unfair to the Consolidated Freightways, but I am trying to present what I see to be the facts, and I don't want to say anything that would not be, in my opinion, sound.

By Mr. JAMES (continuing):

Q. Looking at your own statement, after you have moved out of the deferred position all the payments that become mature in one year, isn't the relationship between what is owing on

2494 that equipment to the value of that equipment very much in favor of granting credit? Referring now to your own exhibit that shows the $169,888.12—isn't that what it shows?

A. I believe that is the figures.

Q. You put everything up in current liabilities——

A. If it matures in one year.

Q. Yes. And then below the line, in the same statement, don't you show trucks and trailers with the value of $1,714,765.25?

A. Oh, I see.

Q. With a depreciated net value of——

A. $1,038,158.36.

Q. You show a depreciated value of $1,038,158.36?

A. That is right.

Q. If this obligation was secured by all of this equipment——

A. Well, it is not.

Q. I am assuming that it is. I recognize that it is not, and it would not be good business to pledge all of your property to secure loans on a portion of your equipment; however, assuming that it is, it amounts to only 16 percent of the depreciated value of the entire property?

A. I can't agree with you. The equipment is used to secure not only that $169,000 of loans, but it is used to secure this $164,000 up here [indicating]. In other words, the equipment has been hypothecated to the extent of not $169,000 but to the extent of $334,000, roughly.

2495 Q. You are attempting to use the figure of $164,147.43 both as a charge against our working capital, and then you want to come down and use it again as a charge against our deferred position?

A. No; that is not right. I am simply trying to answer your question, which was to this effect: you said, isn't it true that the value of the equipment was large enough to more than secure the $169,850, and I said it was, but also said that the $1,038,000 of value has been pledged, not only for that long-term obligation, but for the current as well; and therefore I still stand on what I originally put it.

Chairman TERRIL. I think it is understood that all of this testimony refers to the prior testimony given by Mr. James on Exhibit 64.

By Mr. SCHAFER:

Q. I just want to ask this question, and that is, what is your transportation accounting experience?

A. It is not limited to one account. We do not as a rule broadcast with whom we are connected, and disclose our clientele; it was brought out in San Francisco that we had worked for Pierce Auto Freight for several years; but it is not limited to Pierce.

Q. You testified in Medford in response to a question, with respect to the Consolidated's acquisition of Mitchell, that you had approximately three years' experience accounting for the Pierce Truck Line.

2496 A. I said it extended back for a period of three years. I may be incorrect in that. I think it is longer. I think it is four years with Pierce. Can you recall, Mr. Pierce?

Mr. PIERCE. Not definitely.

The WITNESS. Yes; I can recall that it was in 1936 that I joined their firm in connection with their clientele relationship.

By Mr. SCHAFER:

Q. Do you agree with Mr. James' statement with regard to the comparison of a transportation business to a mercantile business?

A. In what way?

Q. That a transportation business sells its trucks or the use of its trucks?

A. I only agree to this extent, that it is like a factory; it sells the use of its equipment and machinery in everything that it sells; it is an element in there, the use of the equipment. The equipment is going up in wear and tear, and to the extent that you recover the depreciation and not place it back in equipment, you recover back your cash position. I will say that the record does not indicate you have stopped at that, but you have replaced your equipment, and you have done so faster than your rate of depreciation; so you have kept building and building.

Q. Assuming the stock in a transportation company's shelves, speaking from a merchant's standpoint is the trucks and
2497 trailers with which it transports so many tons of merchandise; assuming that what the transportation company sells is the use of its equipment, and that its stock is its equipment, then if you put the value of your equipment above the line and all the amounts owing against the equipment above the line, you would have a 3 to 1 relationship, wouldn't you?

A. No one would condone such a practice.

Q. I am asking you if that is not a fact?

A. It would not be sound accounting. It is a question of simple mathematics to answer it. I assume if you include the fixed assets against the current liabilities, you would have more than a three to one ratio, and the answer, of course, would be "Yes."

Mr. SCHAFER. That is all.

Cross-examination by Mr. FARRENS:

Q. You have been interrogated in regard to this theory, that a transportation company sells its equipment or the depreciation of its equipment to the public. I have always been under the impression that the carriers, whether they are passenger carriers, or freight carriers, that they are selling passenger-miles or ton-miles; that is, what is produced by the use of the equipment. Am I right or am I wrong about that?

A. No. I think you are right.

2498 Cross-examination by Mr. SCHAFER:

Q. Is there any distinction between the two, except a way of measuring?

Mr. FARRENS. Just a minute. A mercantile manufacturing company produces some tangible, physical properly, as a rule, to sell by the use of its machinery and its labor. That is correct, is it not?.

The WITNESS. Yes.

By Mr. FARRENS:

Q. A bus company or a trucking company produces either passenger-miles or ton-miles by the use of its labor and machinery, and sells that to the public?

A. Yes.

Q. In either instance, there is a depreciation of machinery?

A. Yes.

Q. And in either instance, that depreciation, if the company is going to survive, must be made up by depreciation reserves, is that correct?

A. That is correct.

Q. Is a depreciation reserve a part of the working capital?

A. It is not.

Mr. FARRENS. That is all.

Mr. SCHAFER. That is all.

(Witness excused.)

Chairman TERRIL. Is there anything further?

Mr. SCHAFER. I have nothing.

Mr. ELLIS. I have nothing.

2499 Chairman TERRIL. Now, we come to the question of briefs. Has that been decided? I am addressing you, Mr. Schafer.

Mr. SCHAFER. Mr. Examiner, I am sorry to say, after due consideration and conference with my client, it has been determined that we do desire to brief our case, and we will so notify all the parties in our case immediately, and also Mr. Berol of the Oregon-Nevada-California Fast Freight. The date, I understand, has already been set?

Chairman TERRIL. At the San Francisco hearing, ending October 19, the date was tentatively set as January 15 for the filing of briefs in this matter. That will be the ruling of the Board at this time, that briefs in this matter will be filed on January 15, 1941.

There being no further testimony or evidence to be offered in this matter, the record will be closed and the matter submitted to the Commission for determination.

(At 4:55 o'clock p. m. October 31, 1940, hearing concluded.)

2500 *Plaintiffs' Exhibit No. 2*

EXHIBITS

OREGON-NEVADA-CALIFORNIA FAST FREIGHT, INC.

Docket MC–9115 Sub. 1

2501 Docket No. MC–9115, Sub. 1

Statement Showing Balance Sheet of Oregon-Nevada-California Fast Freight, Inc., as of May 31, 1940

ASSETS

Current Assets:		
Cash	$34,004.78	
Working Funds	25.00	
Special Deposits	7,187.43	
Notes Receivable	7,514.51	
Freight Bills Uncollected	30,820.65	
Accounts Receivable	15,063.05	
Materials and Supplies	1,095.51	
Total Current Assets		$95,710.93
Tangible Property:		
Carrier Operating Property	359,078.09	
Less Reserve for Depreciation	206,763.39	
Total Tangible Property		152,314.70
Intangible Property:		
Organization Expense	204.43	
Franchises	1,223.30	
Other Intangibles	66,055.03	
Total Intangible Property		67,482.76
Investments:		
Stock in Other Companies		100.00
Deferred Debits:		
Prepayments—Taxes and Licenses	7,679.98	
Prepayments—Insurance	2,359.54	
Prepayments—Tires and Tubes	9,434.64	
Prepayments—Miscellaneous	540.89	
Other Deferred Debits	3,841.90	
Total Deferred Debits		23,856.95
Miscellaneous Debits:		
Commission and Expense on Capital Stock		104.00
Total Assets		339,569.34

2502 LIABILITIES

Current Liabilities:			
Notes Payable		$3,390.00	
Accounts Payable		31,282.85	
Accounts Payable Connecting Lines		2,845.82	
Wages Payable		10,694.08	
C. O. D.'s Unremitted		1,101.13	
Taxes Accrued		8,915.05	
Total Current Liabilities			$58,237.93
Equipment and Other Long-Term Obligations:			
Equipment Obligations		84,115.50	
Other Long-Term Obligations		25,340.83	
Total Long-Term Obligations			109,456.33
Total Liabilities			167,694.26
Capital Stock Outstanding		104,000.00	
Unappropriated Surplus:			
Unearned Surplus	$36,780.56		
Earned Surplus	31,094.52		
Total Surplus		67,875.08	
Total Capital and Surplus			171,875.08
Total Liabilities and Capital			339,569.34

2503 *Exhibit No. 3*

Docket No. MC–9115, Sub. 1

Statement Showing Operating Revenues and Operating Expenses of Oregon-Nevada-California Fast Freight, Inc., From July 1, 1939, to May 31, 1940

Freight Revenue		$621,484.72	
Expenses:			
Operation and Maintenance	$475,714.82		
Depreciation	34,158.48		
Operating Taxes and Licenses	56,405.01		
Operating Rents	12,986.70		
Total Expenses		579,265.01	
Net Operating Income			$42,219.71
Other Income:			
Miscellaneous Terminal Revenue			1,888.12
Total Gross Income			44,107.83
Income Deductions:			
Interest on Long Term Obligations		6,971.45	
Other Deductions		3,959.65	
Total Income Deductions			10,931.10
Net Profit—July 1, 1939, to May 31, 1940			33,176.73
Less Income Tax—1939			2,082.21
Net Profit—After deducting 1939 Income Tax			31,094.52

2504 *Exhibit No. 4*

Docket No. MC-9115, Sub. 1

Statement Showing Yearly Revenues Between 1934 and 1939 and Revenues for 11 Months Ending May 31, 1940, of Oregon-Nevada-California Fast Freight, Inc., and its Predecessors in Interest, J. A. Gritsch d. b. a. Oregon-California Fast Freight and Nevada-California Fast Freight

July 1934 to June 1935, Incl.	$204,771.43
July 1935 to June 1936, Incl.	275,257.94
July 1936 to June 1937, Incl.	329,874.52
July 1937 to June 1938, Incl.	400,173.49
July 1938 to June 1939, Incl.	507,289.34
July 1939 to May 1940, Incl.	621,484.72

2505 *Exhibit No. 5*

SOUTHERN PACIFIC COMPANY

(Pacific Lines)

(Dawson, N. M. and West; Ogden, Utah and West; Portland, Oreg., and South)
General Freight Department

CIRCULAR LETTER NO. 814

PORTLAND, ORE., *July 10, 1940.*

All Agents in Oregon:

In connection with our taking over the Pacific Truck Express some of our truck competitors are quite actively telling the shippers and receivers that by our taking over the above company the Pacific Truck Express service as well as the P. M. T. service will be very unreliable and that the P. T. E. is getting off the highway and will only be used as a pickup and delivery agent incident to rail service.

This is to ask that each of you actively refute these statements and disseminate the information that, if anything, the P. T. E. and P. M. T. service will be improved over what the service is at present and that we will be in an even better position to handle their shipments by coordinating these two services than we have in the past.

Please advise of any specific instances of which you learn giving names of the trucking companies and their representatives putting out this adverse information.

H. W. KLEIN.

11597-PTE.

2506

Exhibit No. 6

Docket No. MC 9115, Sub. 1

Witness: L. C. Jones

Record of tonnage handled through the Bonneville Locks for the period indicated

Period	Petroleum products	Wheat	Rafted logs	General cargo	Total tonnage thru locks
1937	7,890	1,385	42,975	223	52,473
1938	51,585	27,642	69,488	13,105	161,920
1939	215,809	49,420	133,785	17,800	416,814
1940:					
Jan	23,652	1,738	9,225	2,197	36,812
Feb	19,916	3,358	14,948	1,965	40,187
Mar	30,335	5,231	4,088	1,743	41,397
Apr	33,231	2,882	15,431	1,388	52,932
May	31,065	3,483	23,831	5,738	64,117
1940 total	138,199	16,692	67,523	13,031	235,445

Break-down of general cargo tonnage for the first five months of 1940

Commodity	Tonnage	Commodity	Tonnage
Diesel and Fuel Oil	14,685	Empty Cylinders	4
Cherries, Brined	599	Groceries	77
Cement	306	Iron and Steel	1,366
Hardware	33	Mill Wood	18
Machinery	40	Salt	282
Pipe and Plumbing Goods	178	Plywood	7
Sugar	179	Coal	2
Seed Peas	26	Wine	10
Soap	2	Carbonated Water	24
Oleomargerine	3	Mill Feed	65
Flour	826	Lubricating Oil	17
Roofing Paper	9	Beer	9
Fertilizer	8	Lumber	3,510
Brick	2	Asphalt	11
Canned Goods	10	Miscellaneous	40
Building Material	20	Kerosene	62
Buoys	17	Sacks	5
Sawdust	200	Sand and Gravel	3,360
Insect Spray	7	Shingles	167
Wool	4		
Piling and Poles	1,605	Total	27,716

Authority: Records, U. S. Army Engineer's Corps—Bonneville Office.

2507

Exhibit No. 7

I. C. C. No. MC–9115 (Sub. 1)

Witness: A. H. Gritsch

Statement showing résumé of tonnage originated by applicant at San Francisco Bay points and interchanged at Medford, Oregon, and Klamath Falls

Date	Total Oregon	Total Washington	Total Idaho	Total Montana	Total other	Grand total all points
1939						
Feb.:						
6	34,425	43,840	4,447	112		82,824
7	41,808	29,307	2,372	206	63	76,756
8	19,121	27,040	1,055	740		47,956
9	43,884	20,375	3,673			67,932
10	38,043	24,392	1,409	224		64,068
11	17,553	10,735	749		256	29,293
Total	197,834	155,689	13,705	1,282	319	368,829
Week's average	32,972	25,948	2,284	214	53	61,472
May:						
8	50,501	40,332	2,301		256	93,390
9	40,910	27,352	1,635	425	519	70,841
10	34,661	28,187	3,783	187	1,208	68,026
11	36,313	36,739	5,322	42		78,416
12	38,417	27,406	2,580			68,403
13	38,547	36,534	3,987	81	67	79,216
Total	239,349	196,550	19,608	735	2,050	458,292
Week's average	39,892	32,758	3,268	124	342	76,382
Aug.:						
14	50,551	37,281	2,195	637		90,664
15	47,042	37,357	1,604	329	134	86,466
16	56,804	31,095	1,395	301	115	89,710
17	40,258	28,828	2,710			71,796
18	48,212	53,583	4,507	150	131	106,583
19	34,150	27,765	2,258			64,173
Total	227,017	215,909	14,669	1,417	380	509,392
Week's average	46,170	35,985	2,445	236	63	84,899
Nov.:						
27	40,856	35,758	4,525	32	294	81,465
28	31,275	29,053	2,821	469		63,618
29	37,928	31,164	11,957		150	81,199
30	53,364	41,492	3,252	4,612		102,720
Dec.:						
1	36,078	50,892	4,807	145		91,922
2	18,215	22,627	342	144		41,328
Total	217,716	210,986	27,704	5,402	444	462,252
Week's average	36,286	35,164	4,617	900	76	77,042
Grand total	931,916	779,134	75,686	8,836	3,193	1,798,765
Daily average	38,830	32,464	1,261	368	133	73,056
Weekly average	232,980	194,784	7,566	2,208	798	438,336

2508

Exhibit No. 8

I. C. C. No. MC-9115 (Sub. 1)

Statement showing portion of revenue available under existing divisions for transportation only over routes in Oregon proposed to be served by applicant

Date	Total Oregon	Total Washington	Total Idaho	Total Montana	Total all points
Feb.:					
6	$212.99	$211.90	$26.17	$0.44	$451.50
7	235.83	133.09	11.66	1.63	382.21
8	134.06	152.01	21.97	3.39	311.43
9	203.27	75.29	2.08	.....	280.64
10	169.23	111.58	8.91	1.04	290.76
11	122.26	63.67	1.84	.....	187.77
Total	1,077.64	747.54	72.63	6.50	1,904.31
Average	179.61	124.59	12.11	1.08	317.39
May:					
8	219.97	148.81	8.04	1.97	378.79
9	195.02	175.77	7.65	1.05	379.49
10	195.83	154.88	15.80	.40	366.91
11	188.57	153.81	20.64	.....	363.02
12	221.23	149.57	16.43	.48	387.71
13	183.05	147.47	20.23	.....	350.75
Total	1,203.67	930.31	88.79	3.90	2,226.67
Average	200.61	155.05	14.80	.65	371.11
Aug.:					
14	242.59	176.60	12.90	3.22	435.31
15	259.04	172.68	7.97	1.77	441.46
16	273.93	185.17	9.04	.67	468.81
17	222.56	142.44	13.38	.....	378.83
18	224.13	278.04	21.10	.59	523.86
19	160.23	118.73	15.96	.....	294.92
Total	1,382.48	1,073.66	80.35	6.25	2,542.74
Average	230.41	178.94	13.39	1.04	423.79
Nov.:					
27	177.02	176.29	22.12	.....	375.43
28	196.06	109.25	13.02	2.23	321.46
29	181.04	169.00	70.14	.....	420.18
30	273.86	182.62	22.74	19.98	499.20
Dec.:					
1	176.11	241.09	12.06	.94	430.20
2	100.40	79.77	1.10	.94	182.21
Total	1,105.39	958.02	141.18	24.09	2,228.64
Average	184.23	159.67	23.53	4.02	371.45
Grand total	4,769.18	3,709.53	382.95	40.74	8,902.40
Daily average	198.72	154.56	15.96	1.70	370.93
Weekly average	1,192.32	927.36	95.76	10.20	2,225.60

2509 *Exhibit No. 9*

I. C. C. No. MC-9115 (Sub. 1)

Statement Showing Résumé of Tonnage Originated by Applicant at San Francisco Bay Points and Interchanged at Medford and Klamath Falls, Oregon, for First Six Months of 1940

1940	
January	1,838,488
February	1,866,991
March	2,308,981
April	2,277,996
May	2,667,166
June	2,162,216
Total	13,121,838
Daily average	85,100

2510 *Exhibit No. 10*

I. C. C. No. MC-9115 (Sub. 1)

CONSOLIDATED FREIGHT LINES, INC.,
Portland, Oregon, October 14, 1938.

Mr. T. S. CARTER, Interstate Motor Lines, Inc.
Mr. CLARENCE GARRETT, Garrett Transfer & Storage Co., Inc.
Mr. JAMES C. COUGHLIN, California Motor Express.
Mr. JOE GRITSCH, Oregon-California Fast Freight.
Mr. GROVER EALEY, Inland Motor Freight.

GENTLEMEN: From time to time I have been writing you, gentlemen, urging the formation of a western truck system. There is a constant interchange of freight between our various companies, which could be greatly facilitated by the formation of this system. It would be a great convenience to the shippers to be able to route their freight over the system rather than trying to route it over the line of each carrier.

Several names have been suggested, such as "Transcontinental Trucking System," "United Freight Ways," "American Freight Ways," "Western Freight Ways," "Consolidated Freight Ways." There are plenty of names available and it won't be a very difficult job to adopt a name, a trade-mark, and a slogan and register them in the name of the association or company that we will organize.

It would seem to me advisable that the organization be a corporation in which all of the companies would hold an equal amount of stock and that it be set up in such a manner as to permit public financing later.

Under this plan all the companies would be operating under a common system name. There would be no problem of thru billing. If the shipment was moving from Los Angeles to Seattle, Los Angeles would bill it on the system bills and the shipment would move

through on the original billing with a passing record being made at the points where the shipment is interchanged from one company to the other. All of the agencies of each company would report directly to the home offices of each company. This would eliminate settlements in route. On a shipment from Los Angeles to Seattle the Los Angeles office would show on the bill the splits accruing to the various carriers. If the shipment was a col-
2511 lect shipment, the Seattle office of Consolidated Freight Lines would remit to Consolidated Freight Lines their proportion of the revenue; to Oregon-California Fast Freight its proportion of the revenue; and to the California Motor Express its proportion. If the shipment was a prepaid shipment, Los Angeles would remit to each company its respective proportion of the revenue. On such shipments the originating station would furnish the main office of each company with a copy of the bill, which would be used by the main offices of each company for general accounting.

We could arrange it so that each agency would collect C. O. D. money and remit it directly to the shipper with copies of their draft to the main office of the company that originates the shipment so that they would have a clear record of the payment and C. O. D.

We would adopt a uniform method of tracing shipments and reporting Overs and Shorts.

All of this would certainly greatly simplify our present methods of billing interline shipments and afford to the shipper a greatly improved service.

We would work out ways of easily interchanging equipment as between companies. There is no great difficulty involved here. We could undertake the operation of common terminals at the points where we are now duplicating terminal facilities. We are now working on a conveyor system, which, we believe, is going to be successful and will make a large terminal as efficient as a small one. If we can make the large terminals as efficient as the small ones, a common terminal operation will be a big advantage on account of the increased efficiency of a single pick-up and delivery service over several individual services.

Then there is the further advantage of being able to collectively purchase and hire the services of experts.

It seems to me that any of those advantages are important enough to move us towards taking immediate action by calling a meeting not later than the latter part of November. What are your thoughts on the matter?

Very truly yours,

CONSOLIDATED FREIGHT LINES, INC.

(Sgd) LELAND JAMES.

2512

Exhibit No. 11

Witness: B. A. White

August 1, 1940

Partial list of motor carriers serving between California and Oregon and Washington points and territory affected by operations proposed in MC———. Operations on which orders have been issued (not necessarily final) marked with an asterisk*

Docket	Name and address	Commodities	Operation
*443 *443 Sub. #1	B. W. Lee, Klamath Falls, Oreg.	Dairy products, hides, tallow, junk, and empty malt beverage containers.	Common carrier-regular route—various, including from Klamath Falls to San Francisco & Oakland.
		Malt beverages	In return.
*1592 *1592 Sub. #1	Pacific Truck Express, Portland, Oreg.	General	Common carrier-regular route—bet. So. San Francisco & Portland, serving intermediate Calif. pts. of San Francisco, Oakland, Berkeley, Napa & various intermediate pts. in Oreg.
*4777	Harold M. Gray, Milton, Oreg.	Fruits and vegetables	Common carrier-irregular route—various, including from pts. & places in Calif. to pts. & places in Oreg.; from pts. & places in Umatilla Cty., Oreg., & Walla Walla Cty., Wash., to pts. & places in Calif.; from pts. & places in Umatilla Cty., Oreg., to pts. & places in Walla Walla Cty., Wash.
*9115 *29517 *38560	Oregon-Nevada-California Fast Freight, San Francisco, Calif.	General	Common carrier-regular routes—bet. San Francisco & Medford & Klamath Falls, Oreg.; bet. San Francisco & Elko, Nev., & intermediate pts.
		Dressed poultry	From Eagle Point, Oreg., to San Francisco.
2513		Wrapping paper and empty boxes used for packing dressed poultry.	In return.
15623	Puget Sound-Portland Lines, Inc., Seattle, Wash.	General	Common carrier-regular route—Seattle, Washington, Portland, Wenatchee; Portland and other Washington pts. and by irreg. routes bet. pts. in Washington, Oregon, California, and Idaho.
*17593 *17593 Sub. 1	Pierce Auto Freight Lines, Inc., Medford, Oreg.	General except household goods.	Common carrier-reg. route—bet. Portland and Medford, Oreg.; bet. Medford and San Francisco and all intermeds.
*18231	Frank Battaglia, Myrtle Point, Oreg.	General	Common carrier-reg. route—bet. Portland and Los Angeles, serving Eureka and San Francisco.
18719 18719 Sub. 1	Colletti Fast Freight Los Angeles, Calif.	General	Common carrier-regular route—bet. Seattle, Los Angeles, San Diego and intermediate and offroute points; irreg. route—bet. p. & p. in Washington, Oregon, and California.
*21447	John & Sons Transfer Co., Yakima, Wash.	Agricultural Commodities.	Common carrier-irreg. routes—bet. p. & p. in California on one hand and Yakima County, Wash., and Portland, Oreg. on other.
2514			
*30092 Sub. 1	W. F. Herrett, Sunnyside, Wash.	Agricultural and horticultural products, processed and unprocessed.	Common carrier-irreg. routes—bet. all p. & p. in Washington, Oregon, and California.
*33269	H. B. Schock, Yakima, Wash.	Fresh fruits and vegetables.	Common carrier-regular route—bet. Yakima, Wash., and Los Angeles, Calif.

*Partial list of motor carriers serving between California and Oregon and Washington points and territory affected by operations proposed in MC———. Operations on which orders have been issued (not necessarily final) marked with an asterisk.**—Continued.

Docket	Name and address	Commodities	Operation
34383 Sub. 1	John & Pete Lubetich, dba Pacific Refrigerated Motor Line, Seattle, Wash.	General	Common carrier-regular route—bet. Los Angeles and Seattle, all intermediate points: irreg. route-various off-route points in Washington, Oregon, and California.
35525	Ora James Mitchell, Portland, Oreg.	General	Common carrier-regular route—bet. Los Angeles District and Seattle, serving intermediate and off-route points.
*42487	Consolidated Freightways, Inc., Portland, Oreg.	General	Common carrier-regular route—bet. Portland and Medford, Oregon, incl. intermediate points and between Portland and Seattle; also between Oregon, Washington, Idaho, Montana, Nevada, and California points to San Francisco, Calif.
*65121 *65121 Sub. 1	J. E. Foster, Eugene, Oreg.	Cheese and butter	Contract carrier-regular route—from Myrtle Point, Oreg., to San Francisco.
		Eggs	From Eugene to San Francisco.
		Fruits and vegetables	From San Francisco to Eugene, serving Stockton for pick-up only.
2515			
*65199	C. G. Reymers, dba Reymers Auto Freight, Klamath Falls, Oreg.	Groceries and other special commodities,	Common carrier-regular routes—from San Francisco to Klamath Falls. From Klamath Falls to San Francisco.
		Potatoes and empty barrels and bottles.	
		Malt beverages and milk.	From Eureka to Klamath Falls.
*68618 68618 Sub. 1	Los Angeles-Seattle Motor Express, Inc., Seattle, Wash.	General	Common carrier-regular route—between Los Angeles and Seattle, all intermediate points; irregular route-var. off-route points in Washington, Oregon, and California.
69583	Cascade, Inc., dba Cascade Fast Freight, Los Angeles, Calif.	General	Common carrier-regular route—between Los Angeles and Portland, serving all intermediate points, also off-route points Oakland and San Francisco.
*71632	Athel Hupp Dudley, Medford, Oreg.	Vegetables	Common carrier-regular route—from San Francisco to Medford.
		Fruit	In return.
		Livestock	Irregular route—various, including. Between p. & p. in Jackson and Josephine Counties, Oregon on one hand and p. & p. in California on other.
*77194	Richard M. Tonkins, Yakima, Wash.	Fresh fruit and vegetables.	Common carrier-regular route—between Yakima and Los Angeles, serving Spokane, Wash., and intermediate points in Oregon.
2516			
*59897	T. R. Hanson Transfer, Puyallup, Wash.	Christmas trees	Common carrier-irreg. route—From Pierce County, Wash., to San Francisco and Los Angeles.
		Fresh and canned fruits and vegetables and supplies.	Within Washington and Oregon.
*80974	Transcontinental Contract Carriers, Oakland, Calif.	Dairy products	Contract carrier-regular route—From North Bend, Oreg., to Oakland, Calif., serving Marshfield, Bandon areas, Oregon for pick-up and San Francisco for delivery.
*100908	Transcontinental Contract Carriers, Oakland, Calif.	Groceries, paraffin, canned goods, salt, and fresh fruits, and vegetables.	Common carrier-regular routes—From Oakland and San Francisco to North Bend, Oreg., and intermediate points in Oregon.

2517 *Exhibit No. 14*

Application Number MC-9115-1

Witness: Elliott

Schedule showing Railway Express service between San Francisco, Oakland, Alameda, and Berkeley and following named points in California, Oregon, and Washington

North-bound (read down)	Train number					
	#224, 16	#24	#12	#8	#20	#330
San Francisco, Calif	7:30 a.	5:40 p.	6:40 p.	8:35 p.	8:35 p.	
Oakland (Alameda), Calif	8:02 a.	6:17 p.	7:26 p.	9:17 p.	9:28 p.	
Berkeley, Calif	8:10 a.	6:28 p.	7:37 p.	9:27 p.	9:40 p.	
S. P. to—						
Medford, Oreg				10:48 a.		8:05 p.
Grants Pass, Oreg				11:40 a.		9:03 p.
Roseburg, Oreg						12:32 a.
Klamath Falls, Oreg	9:30 p.	4:30 a.	6:40 a.		10:15 a.	
Eugene, Oreg	3:40 a.	9:51 a.	12:04 p.		4:10 p.	3:35 a.
Albany, Oreg	4:55 a.		1:18 p.		5:23 p.	5:15 a.
Salem, Oreg	5:40 a.		1:59 p.		6:07 p.	6:00 a.
Oregon City, Oreg					7:10 p.	7:10 a.
Portland, Oreg	7:40 a.	1:10 p.	3:45 p.		8:00 p.	8:00 a.
O. N.						
Portland, Oreg	8:35 a.	1:30 p.	4:20 p.		11:30 p.	
Tacoma, Wash	1:04 p.	4:33 p.	8:05 p.		5:00 a.	
Seattle, Wash	2:20 p.	5:30 p.	9:20 p.		6:45 a.	
S. P. & S.						
Portland, Oreg	9:00 a.				9:30 p.	
Vancouver, Wash	9:30 a.				9:56 p.	
Camas, Wash	9:52 a.					
Washougal, Wash	9:58 a.					
Spokane, Wash	7:30 p.				7:00 a.	
S. P.						
Eugene, Oreg					12:01 a.	
Gardiner, Oreg					3:51 a.	
Reedsport, Oreg					4:03 a.	
North Bend, Oreg					5:05 a.	
Marshfield, Oreg					5:20 a.	
P. M. T.						
Marshfield, Oreg					7:30 a.	
Coquille, Oreg					8:30 a.	
Myrtle Point, Oreg					9:10 a.	
O. C. N. Stages						
Klamath Falls, Oreg			8:00 a.			
Alturas, Calif			11:00 a.			
A. T. (Arrow Transit)						
Klamath Falls, Oreg			10:00 a.			
Lakeview, Oreg			2:00 p.			

South-bound (read up)	Train number					
	#19	#7	#23	#329	#11	#17
San Francisco, Calif	7:50 a.		1:20 p.		5:50 p.	7:30 p.
Oakland (Alameda), Calif	7:08 a.		12:44 p.		5:12 p.	6:52 p.
Berkeley, Calif	6:54 a.		12:34 p.		4:59 p.	6:41 p.
S. P. from—						
Medford, Oreg		4:35 p.		7:25 a.		
Grants Pass, Oreg		4:00 p.		6:24 a.		
Roseburg, Oreg				2:35 a.		
Klamath Falls, Oreg	6:20 p.		2:15 a.		6:25 a.	6:55 a.
Eugene, Oreg	11:47 a.		8:53 p.	11:05 p.	12:53 a.	1:14 a.
Albany, Oreg	10:43 a.			10:00 p.	11:57 p.	12:17 p.
Salem, Oreg	9:58 a.			9:10 p.	11:17 p.	11:36 p.
Oregon City, Oreg	8:52 a.			7:55 p.		
Portland, Oreg	8:10 a.		5:40 p.	7:15 p.	9:40 p.	10:00 p.
G. N.-N. P.						
Portland, Oreg	6:30 a.		5:00 p.		9:20 p.	9:10 p.
Tacoma, Wash	12:45 a.		1:52 p.		5:30 p.	5:25 p.
Seattle, Wash	11:30 p.		1:00 p.		4:20 p.	4:20 p.
S. P. S.						
Portland, Oreg	7:35 a.		5:30 p.			
Vancouver, Wash	7:05 a.		5:00 p.			
Camas, Wash			4:30 p.			
Washougal, Wash			4:24 p.			
Spokane, Wash	9:45 p.		7:30 a.			
S. P.						
Eugene, Oreg						12:01 a.
Gardiner, Oreg						8:22 p.
Reedsport, Oreg						8:15 p.
North Bend, Oreg						7:12 p.
Marshfield, Oreg						7:00 p.
P. M. T.						
Marshfield, Oreg						6:20 p.
Coquille, Oreg						5:45 p.
Myrtle Point, Oreg						4:55 p.
O. C. & N. Stages						
Klamath Falls, Oreg	5:00 p.					
Alturas, Calif	2:30 p.					
A. T. (Arrow Transit)						
Klamath Falls, Oreg	7:30 p.					
Lakeview, Oreg	4:30 p.					

San Francisco, 10/15/40.

2518 *Exhibit No. 28*

Witness: Hesselbrock

List of equipment now in operation by Colletti Fast Freight, for both line haul and local terminal deliveries, with pertinent facts pertaining thereto

Equipment number	Year	Type of unit	Engine or serial number	Maximum load
1	1937	Reo Tractor	HB-13581	49,700
2T	1937	Fruehauf Semitrailer	C-3275	
3	1938	Kenworth Truck	HB-13453	34,000
4T	1938	Utility Trailer	8781	24,000
5	1928	Reo Truck	CF-11395	12,000
6	1939	Kenworth Truck	13775	34,000
7T	1939	Utility Trailer	8937	24,000
8	1936	Ford Truck	BB-2610385	11,770
9	1939	Kenworth Truck	HB-6-16197	34,000
10T	1939	Utility Trailer	9132	24,000
12	1940	Chevrolet Truck	T-3017593	12,000
13	1934	GMC Truck	T-984	12,000
14	1940	Kenworth Truck	17485	34,000
15T	1939	Utility Trailer	8938	24,000
16	1940	Kenworth Truck	17496	34,000
17T	1940	Utility Trailer	9507	24,000

2519 *Exhibit No. 29—Hendrickson*

Schedule of equipment operated by Los Angeles-Seattle Motor Express, Inc.

TRUCKS AND TRACTORS

Make	Company number	Year	Licensed tonnage (pounds)	Powered by—
G. M. C	1	1937	24,000	G. M. C. Diesel.
G. M. C	2	1939	30,000	G. M. C. Diesel.
International	3	1939	24,000	Cummins Diesel.
G. M. C	4	1935	24,000	G. M. C. Diesel.
G. M. C	5	1938	24,000	G. M. C. Diesel.
Mack	6	1937	24,000	G. M. C. Diesel.
White	7	1940	24,000	Cummins Diesel.
Mack	8	1939	24,000	Lanova Diesel.
G. M. C	9	1937	24,000	G. M. C. Diesel.
Mack	10	1937	24,000	Cummins Diesel.
G. M. C	11	1939	24,000	G. M. C. Diesel.
Kenworth	12	1940	30,000	Cummins Diesel.
G. M. C	13	1940	30,000	G. M. C. Diesel.
G. M. C	14	1937	24,000	G. M. C. Diesel.
Peterbilt	20	1940	30,000	Cummins Diesel.
Peterbilt	21	1940	30,000	Cummins Diesel.
Peterbilt	22	1940	30,000	Cummins Diesel.
Peterbilt	23	1940	30,000	Cummins Diesel.
Peterbilt	24	1940	30,000	Cummins Diesel.
Peterbilt	25	1940	30,000	Cummins Diesel.

10 Fords in pick-up and delivery service.

2520 — TRAILERS AND SEMIS

Make	Company number	Year	Licensed tonnage (pounds)
Trailmobile	1-A	1939	24,000
Trailmobile	2-A	1939	24,000
Fruehauf	3-A	1939	30,000
Standard	4-A	1939	30,000
Isaacson	5-A	1935	26,000
Wentwin	6-A	1937	26,000
Beall	7-A	1939	30,000
Beall	8-A	1939	30,000
Wentwin	9-A	1937	26,000
Fruehauf	10-A	1939	30,000
Wentwin	11-A	1939	24,000
Kenworth	12-A	1940	24,000
Trailmobile	13-A	1940	24,000
Isaacson	14-A	1935	26,000
Trailmobile	20-A	1940	24,000
Trailmobile	21-A	1940	24,000
Trailmobile	22-A	1940	24,000
Trailmobile	23-A	1940	24,000
Trailmobile	24-A	1940	24,000
Trailmobile	25-A	1940	24,000

Total number of units in revenue service: Fifty.

Date	Consignor	Consignee	Pt. of Origin	Destination	Commodity	Weight
4-1-40	New England Fish Co	S. F. Internat'l	Seattle, Wash	San Francisco	Fish	2,160
4-1-40	Whiz Fish Co	West. Calif. Fish	Seattle, Wash	San Francisco	Fish	1,818
4-1-40	Haines Oyster Co	Producers Trad. Co	Seattle, Wash	San Francisco	Oysters	376
4-1-40	Washington Fish Co	Alioto Fish Co	Seattle, Wash	San Francisco	Fish	180
4-1-40	San Juan Fish Co	Cental Fish Co	Seattle, Wash	Oakland	Fish	1,800
4-1-40	Haines Oyster Co	Joe Pucci	Seattle, Wash	Oakland	Fish	180
4-1-40	Albers Bros. Mill Co	Same	Seattle, Wash	Oakland	Advert. mat	131
4-1-40	Rockpoint Oyster Co	Joe Pucci	Seattle, Wash	Oakland	Oysters	324
4-1-40	Doty Fish Co	Western Calif.	Kalama, Wash	San Francisco	Fish	1,908
4-1-40	R. G. LeTourneau	Webb Tractor	Stockton, Calif	Yakima, via Seattle	Machinery	540
4-1-40	R. G. LeTourneau	Loggers & Contr	Stockton, Calif	Portland, Oreg	Machinery	1,340
4-1-40	Axton Fisher Tob. Co	Pacific Fruit	San Francisco	Portland, Oreg	Cigarettes	66
4-1-40	Haslett Whse. Co	Holland	San Francisco	Vancouver, Wash	Drugs	484
4-1-40	Haslett Whse. Co	Meir & Frank	San Francisco	Portland, Oreg	Drugs	72
4-1-40	Haslett Whse. Co	McKesson	San Francisco	Portland, Oreg	Drugs	210
4-1-40	Haslett Whse. Co	Gilbert & Barker	San Francisco	Portland, Oreg	Drugs	78
4-2-40	Bowman Daute	B. Williams	San Francisco	Eugene, Oreg		75
4-2-40	R. G. LeTourneau	Loggers & Contr	Stockton, Calif	Eugene, Oreg	Machinery	6,100
4-2-40	Olympic Hotel	M. O. Frank	Seattle, Wash	San Francisco	Samples	153
4-2-40	Whiz Fish Co	Western Calif. Fish	Seattle, Wash	San Francisco	Fish	1,813
4-2-40	Haines Oyster Co	Producers Trad. Co	Seattle, Wash	San Francisco	Oysters	376
4-2-40	Carnation Co	American Creamery	Seattle, Wash	Oakland, Calif	Frozen Fruits	20,000
4-2-40	Wm. B. & M. H. Wright Candy Co	Jerry Berry	Portland, Oreg	San Francisco, Calif	Candy	359
4-2-40	Washington Fish Co	Meredith Fish Co	Seattle, Wash	Sacramento, Calif	Fish	6,660
4-3-40	Wire Rope Mfg. Co	F. E. Barnett Co	Seattle, Wash	San Francisco, Calif	Rope	6,100
4-3-40	New England Fish Co	Delicatessen Supp	Seattle, Wash	San Francisco, Calif	Fish	2,160
4-3-40	Spot Oil Co	G. H. Gallineau	Seattle, Wash	San Francisco, Calif	Oil	86
4-3-40	Commercial Cream Co	Cardinet Candy Co	Seattle, Wash	Oakland, Calif	Powdered Eggs	250
4-3-40	Albers Bros. Mill Co	Same	Seattle, Wash	Oakland, Calif	Advert. Matter	242
4-3-40	St. Helens Trk. Line	Frigidaire Co	Portland, Oreg	Oakland	Refrig	170
4-3-40	Rex Novelty	Same	Portland, Oreg	San Francisco	Novelties	375
4-3-40	Rockpointy Oyster Co	A LaRocca	Seattle, Wash	San Francisco	Oysters	1,620
2522						
4-2-40	Schroeder	McKesson	San Francisco	Spokane via Seattle	Drugs	709
4-2-40	Schroeder	Manlowe	San Francisco	Spokane via Seattle	Drugs	419
4-2-40	Bryant Electric	Westinghouse	San Francisco	Spokane via Seattle	Switches	1,109
4-2-40	Haslett	S. H. Kress	San Francisco	Spokane via Seattle	Malted Milk	60
4-2-40	Haslett	Benewan	San Francisco	Spokane via Seattle	Cocoa Pdr	204
4-2-40	Haslett	J. J. Newberry	San Francisco	Spokane via Seattle	Choc. Syrup	144
4-2-40	Chas. E. Hires	Fortuene Tfr	San Francisco	Seattle, Wash	K. D. Cartons	480
4-2-40	Schwabacher Frye	Lowman & Hanford	San Francisco	Seattle, Wash	Prtd. Forms	30

4-2-40	Anaconda Copper	Palmer Elect	San Francisco	Seattle, Wash	Ins. Copper Wire	1,760
4-2-40	Schroeder	Payless Drug	San Francisco	Spokane via Seattle	Toilet Preps and Adv. Matter.	205
4-3-40	National Dollar	Same	San Francisco	Spokane via Seattle	Dry Goods	90
4-3-40	Connolly	Home Mattress	San Francisco	Spokane via Seattle	Cotton Pc. Goods	155
4-3-40	Eugene Dietsgen	Shaw & Borden	San Francisco	Spokane via Seattle	Photo Material	141
4-3-40	Westinghouse	Motor Parts Mach	San Francisco	Spokane via Seattle	Brake Parts	165
4-3-40	Whitaker	Colyear	San Francisco	Spokane via Seattle	Battery Cables	167
4-3-40	Glidden	Western Auto Sup	San Francisco	Seattle	Paint	575
4-3-40	Haslett	Tacoma Drug	San Francisco	Tacoma, Wash	Drugs	125
4-4-40	Calif Frosted Foods	S. A. Moffett	Sacramento	Seattle	Frozen Foods	2,412
4-4-40	R. G. LeTourneau	Loggers & Contr	Stockton	Eugene	Machinery	327
4-4-40	Axton Fisher Tob. Co	Safeway	San Francisco	Spokane via Seattle	Cigarettes	115
4-4-40	Hodges & Glomb	Montgomery & Ward	San Francisco	Spokane via Seattle	Ins Copper Wire	1,000
4-4-40	United Shoe	Inland Empire	San Francisco	Spokane via Seattle	Shoe Findings	262
4-4-40	Chase Brass	Alaska S. S. Co	San Francisco	Seattle	Brass Tubes	2,609
4-4-40	Columbia Steel	Atkinson	San Francisco	Seattle	Wire Rope	365
4-4-40	Axton Fisher	J. V. Payne	Yakima, Wash., via Seattle.	San Francisco	Cigarettes	62
4-4-40	Ames Harris Neville	Cascade Shade	San Francisco	Yakima via Seattle	Cotton Pc. Goods	136
4-4-40	Haslett	Western Golf	San Francisco	Portland	Golf Equip	816
4-4-40	Haslett	McKesson	San Francisco	Portland	Drugs	92
4-4-40	Haslett	Foshay & Mason	San Francisco	Albany, Oreg., via Eugene.	Drugs	45
4-4-40	Albers Bros	Same	Seattle, Wash	Oakland	Prtd. Advert. Mat	151
4-4-40	Seattle Gas Co	Pacific Meter Wks	Seattle, Wash	San Francisco	Gas Meters	2,874
4-5-40	Broderick & Bascom	R. G. LeTourneau	Portland, Oreg	Stockton	Wire Rope	1,230
4-5-40	O. H. Faulstitch	J. H. Turner	Seattle, Wash	Stockton	Horseradish	300
2523						
4-6-40	Axton Fisher	Northern Groc	San Francisco	Bellingham via Seattle	Tobacco	66
4-6-40	Axton Fisher	Safeway	San Francisco	Yakima via Seattle	Tobacco	66
4-6-40	Axton Fisher	Yakima Groc	San Francisco	Yakima via Seattle	Tobacco	99
4-6-40	Rotary Colorprint	Montgomery & Ward	San Francisco	Tacoma	Circulars	1,800
4-6-40	Germain Seed	Forsberg	San Francisco	Port Angeles via Seattle.	Pens ticketed	1,000
4-6-40	Schwabacher Frye	Lowman & Hanford	San Francisco	Seattle, Wash	Printed Forms and Sales Tags	640
4-6-40	Haslett	Motor Supply	San Francisco	Spokane via Seattle	Pump parts	49
4-6-40	Haslett	McKesson	San Francisco	Spokane via Seattle	Drugs	260
4-6-40	Haslett	Olympic Dairy	San Francisco	Tacoma	Choc. Syrup	108
4-6-40	Gilro Mach. Co	Continental Can	San Francisco	Seattle	Steel Stampings	75
4-6-40	Don Neher	Western Auto	San Francisco	Seattle	Auto Parts	110
4-6-40	Albers Bros	Same	Oakland	Seattle	Cancelled Coupons	108
4-6-40	Axton Fisher	Merch Whlse Groc	San Francisco	Portland	Cigarettes	66
4-6-40	Haslett	S. H. Kress	Portland, Oreg	San Francisco	Drugs	30
4-6-40	A. E. Green	Webber Machine	San Francisco	Vancouver	Furnace Parts	658
4-6-40	Rotary Colorprint	Montgomery & Ward	San Francisco	Corvallis via Eugene, Oreg.	Printed Matter	1,460

Date	Consignor	Consignee	Pt. of Origin	Destination	Commodity	Weight
4-4-40	R. G. LeTourneau	Webb Tractor	Stockton	Yakima via Seattle	Tractor Parts	453
4-6-40	Doty Fish Co	Meredith Fish	Kalama, Wash	Sacramento	Fish	11,500
4-6-40	North Pacific Bank Note Co	State Ice Co	Seattle, Wash	Sacramento	Prtd. Matter	50
4-6-40	Whiz Fish Co	Goldens Market	Seattle, Wash	Sacramento	Fish	260
4-6-40	Northwest Ice	Buttercrest	Portland, Oreg	Sacramento	Cold Pack Fruit	990
4-6-40	San Juan Fish Co	S. F. International	Seattle	San Francisco	Fish	1,800
4-6-40	Haines Oyster Co	Producers Trading	Seattle	San Francisco	Oysters	378
4-6-40	Geo. Wahl	Tai Hing Chong Co	Seattle	San Francisco	Frozen Fish	2,050
4-6-40	Geo. Wahl	Ying Chong Co	Seattle	San Francisco	Frozen Fish	1,812
4-6-40	Sebastian Stuart	A. Paladini	Seattle	San Francisco	Fish	1,120
4-6-40	Sebastian Stuart	Romeo Fish Co	Seattle	San Francisco	Fish	368
4-6-40	Whiz Fish Co	H. Dowden	Seattle	San Francisco	Fish	3,600
4-6-40	Perfection Smokery	Atlantic Fish	Seattle	San Francisco	Smoked Fish	150
4-6-40	Washington	A. Paladini	Seattle	San Francisco	Fish	360
4-6-40	Washington	Consolidated	Seattle	San Francisco	Fish	150
4-6-40	Washington	Western Calif	Seattle	San Francisco	Fish	736
4-6-40	New England Fish Co	A. Friscia	Seattle, Wash	San Francisco	Fish	360
4-6-40	New England Fish Co	Puget Oyster	Seattle, Wash	San Francisco	Shrimp	360
4-6-40	New England Fish Co	S. F. International	Seattle, Wash	San Francisco	Fish	2,880
4-6-40	New England Fish Co	Delicatessen Supp	Seattle, Wash	San Francisco	Frozen Fish	1,250
4-6-40	Rockpoint Oyster Co	Paladini	Seattle, Wash	San Francisco	Oysters	1,490
4-6-40	Pacific Label	Disabled Amer. Veterans	Seattle, Wash	San Francisco	Labels	185
4-6-40	Olympic Hotel	A. Weingarten	Seattle, Wash	San Francisco	Sample Trunks	235
4-6-40	Graton & Knight	Same	Seattle, Wash	San Francisco	Packing	59
4-6-40	Olympic Hotel	F. Hoffman	Seattle, Wash	San Francisco	Sample Trunks	677
4-6-40	Nehi Bottling	Western Stopper	Seattle, Wash	San Francisco	Bottlers Supp	340
4-6-40	Thompson	Eugene Deutzgen	Seattle, Wash	San Francisco	P. E	105
4-6-40	T. B. Shaw	G. Shaw	Seattle, Wash	San Francisco	P. E	40
4-6-40	Sebastian Stuart	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	1,080
4-6-40	Sebastian Stuart	Central	Seattle, Wash	Oakland, Calif	Fish	1,080
4-6-40	A. J. Meaker	Hahn & Co	Seattle, Wash	Oakland, Calif	Frozen Meat	1,712
4-6-40	Main Fish Co	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	720
4-6-40	Main Fish Co	American	Seattle, Wash	Oakland, Calif	Fish	1,800
4-6-40	New England Fish Co	West Coast	Seattle, Wash	Oakland, Calif	Fish	600
4-6-40	New England Fish Co	Norfish Sales Co	Seattle, Wash	Oakland, Calif	Crabmeat	1,080
4-6-40	New England Fish Co	American	Seattle, Wash	Oakland, Calif	Crabmeat	1,080
4-6-40	New England Fish Co	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	1,800
4-6-40	G. T. Henderson	Jack Smith	Seattle, Wash	Oakland, Calif	Personal Effects	243
4-6-40	Wm. B. & M. H. Wright Candy Co.	H g Walters	Portland, Oreg	San Francisco	Candy	259
4-6-40	Whiz Fish Co	S. F. Fish Co	Seattle, Wash	Sacramento, Calif	Fish	555
4-6-40	Superior Egg and Pltry	Geo. Makins	Seattle, Wash	San Francisco	Frozen Poultry	5,000
4-8-40	Washington Co-op	Producers Trade	Seattle, Wash	San Francisco	Livers	56
4-8-40	Mecallum Legaz Fish	S. F. International	Seattle, Wash	San Francisco	Fish	1,850
4-8-40	Oxenberg Fish Co	S. F. International	Seattle, Wash	San Francisco	Fish	1,800
4-8-40	Washington Fish Co.	Alioto Fish Co.	Seattle, Wash	San Francisco	Fish	180

4-8-40	Hershey Packing Co	Same	Seattle, Wash	San Francisco	Cold Pack Fruits and Vegs.	750
4-8-40	Sebastian Stuart	Romeo Fish Co	Seattle, Wash	San Francisco	Fish	360
4-8-40	Sebastian Stuart	Delicatessen	Seattle, Wash	San Francisco	Fish	385
4-8-40	Economy Irrigation	J. G. Creighton	Seattle, Wash	San Francisco	Lawn Sprinklers	115
4-8-40	Pacific Waxed Paper	Renon Baking	Seattle, Wash	San Francisco	Waxed Paper	270
4-8-40	Olympic Hotel	C. Jacobson	Seattle, Wash	San Francisco	Sample Trunks	700
4-8-40	Haines Oyster	Pacific Fish Co	Seattle, Wash	Oakland, Calif	Oysters	270
4-8-40	Oxenberg Bros	Pucci & Son	Seattle, Wash	Oakland, Calif	Fish	720
4-8-40	Oxenberg Bros	Western Calif	Seattle, Wash	Oakland, Calif	Fish	360
2525						
4-8-40	Main Fish Co	A. Paladini	Seattle, Wash	Oakland, Calif	Fish	3,640
4-8-40	Whiz Fish Co	American	Seattle, Wash	Oakland, Calif	Fish	1,080
4-8-40	Whiz Fish Co	Western	Seattle, Wash	Oakland, Calif	Fish	1,820
4-8-40	Rockpoint Oyster	A. LaRocca	Seattle, Wash	Oakland, Calif	Oysters	810
4-8-40	Rockpoint Oyster	A. Paladini	Seattle, Wash	Oakland, Calif	Oysters	486
4-8-40	New England Fish Co	S. F. Int'l	Seattle, Wash	San Francisco	Fish	1,820
4-8-40	Rockpoint Oyster	American	Seattle, Wash	Oakland, Calif	Oysters	560
4-8-40	Rockpoint Oyster	Joe Pucci	Seattle, Wash	Oakland, Calif	Oysters	810
4-8-40	Pacific Waxed Paper	Hagstroms	Seattle, Wash	Oakland, Calif	Waxed Paper	69
4-8-40	L. Neth	Same	Portland, Oreg	San Francisco, Calif	P. E	55
4-8-40	O. H. Faulstitch	J. H. Turner	Seattle, Wash	Stockton, Calif	Horseradish	300
4-8-40	Whiz fish Co	P. Busallachi	Seattle Wash	Stockton, Calif	Fish	1,800
4-8-40	Whiz Fish Co	S. F. Int'l	Seattle, Wash	Sacramento	Fish	1,100
4-8-40	Washington Fish Co	Pacific Fish	Seattle, Wash	Sacramento	Fish	735
4-8-40	Washington Fish Co	Meredith Fish	Seattle, Wash	Sacramento	Fish	360
4-8-40	Washington Fish Co	Capital Fish	Seattle, Wash	Sacramento	Fish	380
4-8-40	R. D. Bodle Co	Butter Crisp	Seattle, Wash	Sacramento	Cold Pack Fruits and Vegetables.	660
4-8-40	Whiz Fish Co	Pacific Fish Co	Seattle, Wash	Sacramento	Fish	360
4-6-40	Kronke Co	Cascade Shade & Awning Co	Oakland, Calif	Yakima via Seattle	Cotton Pc Goods	105
4-3-40	Cadillac Motor Car Co	Gibson Motor Wks	Oakland, Calif	Spokane via Seattle	Auto Parts	42
4-9-40	Buckingham & Heckt	A. L. Davis	San Francisco	Seattle, Wash	Boots and Shoes	55
4-8-40	John Wyeth & Bros	Manlowe Trans	San Francisco	Spokane via Seattle	Drugs	228
4-8-40	Majestic Paste Co	National Dollar Stores	San Francisco	Spokane via Seattle	Noodles	650
4-8-40	Axton Fisher Tob	Payless Drug Co	San Francisco	Spokane via Seattle	Cigarettes and Tobacco.	217
4-8-40	Axton Fisher Tob	W. C. Burrell	San Francisco	Spokane via Seattle	Cigarettes	132
4-8-40	Axton Fisher Tob	K. M. Holman	San Francisco	Spokane via Seattle	Advert. Matter	57
4-8-40	The Borden Co	S. H. Kress Co	San Francisco	Seattle	Malted Milk	112
4-8-40	The Stout Sign Co	Arctic Kist Bott. Co	San Francisco	Tacoma, Wash	Steel Signs	937
4-6-40	Oil Purifier Inc	Six Robblees Inc	Oakland, Calif	Seattle, Wash	Auto Parts	1,777
4-8-40	Goodyear Tire & Rubber Co	Same	Oakland, Calif	Seattle, Wash	Batteries and Cable	88

Date	Consignor	Consignee	Pt. of Origin	Destination	Commodity	Weight
2526						
4-8-40	Hammond Aircraft	Harrison Sales	So. San Francisco	Seattle, Wash	Air Cooler	220
4-8-40	Gilbert & Barker Mfg	Standard Oil Co	San Francisco	Yakima, Wash. via Seattle.	Power Meas. Pumps	1,645
4-8-40	Ionized Yeast Co., Inc	West Coast Whlse Drug Co	San Francisco	Seattle, Wash	Patent Med	90
4-8-40	Williamson Candy Co	U. S. Navy Yard	San Francisco	Bremerton via Seattle, Wash.	Candy	285
4-8-40	Charles E. Hires Co	Wenatchee Bott Wks	San Francisco	Wenatchee, Wash., via Seattle.	K. D. Cartons	690
4-9-40	John Wyeth & Bros	Manlowe Trans.	San Francisco	Spokane, Wash., via Seattle.	Drugs	174
4-9-40	Schroeder Drayage	McKesson & Robbins	San Francisco	Spokane via Seattle	Toilet Preps	204
4-9-40	Canada Dry Ginger Ales	Officers Club	San Francisco	Ft. Lewis, Wash., via Seattle.	Whiskey	42
4-9-40	Electrogas Div. of Payne Furnace Co.	Seattle Gas Co	San Francisco	Seattle, Wash	Hot Air Furnaces	1,500
4-9-40	Byant Elect. Co	Westinghouse	San Francisco	Spokane via Seattle	Recept Plates	116
4-9-40	Haslett	Fred Meyer Inc	San Francisco	Portland, Oreg	Durgs	80
4-9-40	Axton Fisher	J. R. Swith	San Francisco	Portland, Oreg	Cigarettes	45
4-9-40	Axton Fisher	Bernstein	San Francisco	Portland, Oreg	Cigarettes	89
4-9-40	Haslett	Kurrows Bakery	San Francisco	Portland, Oreg	Flav	172
4-9-40	King & Co	Pac. Conserving	San Francisco	Portland, Oreg		400
4-9-40	California Packing	Hovden Food	San Francisco	Marshfield via Eugene, Oreg.	Groceries	500
4-9-40	Haslett	Quoisenberry	San Francisco	Salem, Oreg	Groceries	32
4-9-40	Haslett	J. J. Newberry	San Francisco	Eugene, Oreg	Drugs	54
4-9-40	R. G. LeTourneau	Western Tractor	Stockton, Calif	Seattle, Wash	Tractor Parts	179
4-9-40	R. M. Atwater	Same	Seattle, Wash	Oroville, via Sacramento.	P. E	180
4-10-40	Whiz Fish Co	Al. H. Meyer	Seattle, Wash	San Francisco	Livers	2,465
4-10-40	Sears Roebuck & Co	Encyclopedia Brittanica	Seattle, Wash	San Francisco	Books	157
4-10-40	Pacific Waxed Paper	Renon Bakery	Seattle, Wash	San Francisco	Waxed Paper	112
4-10-40	News Review	Mergenthaler	Seattle, Wash	San Francisco	Prtd. Matter	165
4-10-40	Loyalty Group	Same	Seattle, Wash	San Francisco	Prtd. Matter	75
4-10-40	N. Halpern	L. Mendelson	Seattle, Wash	San Francisco	Salt Fish	330
4-10-40	Casein Co. of Amer	Krochler Mfg Co	Seattle, Wash	San Francisco	Dry Glue	325
4-10-40	General Tire Co	Same	Seattle, Wash	San Francisco	Tires	280
4-10-40	A. Swanson	W. B. Swanson	Seattle, Wash	San Francisco	Pers Effects	78
2527						
4-10-40	Gibson Packing Co	Calif. Casing Co	Seattle, Wash	San Francisco	Sausage Casings	685
4-10-40	Pacific Waxed Paper	Renon Baking Co	Seattle, Wash	San Francisco	Waxed Paper	108
4-10-40	Pacific Waxed Paper	Same	Seattle, Wash	San Francisco	Waxed Paper	410

4-10-40	Pacific Waxed Paper	Same	Seattle, Wash	San Francisco	Waxed Paper	877
4-10-40	City Transfer	Cox Willman	Seattle, Wash	Oakland, Calif	Pers Effects	32
4-10-40	Albers Bros. Mill Co	Same	Seattle, Wash	Oakland, Calif	Prtd Advert Matt	73
4-10-40	Albers Bros. Mill Co	Same	Seattle, Wash	Oakland, Calif	Prtd Advert Matt	450
4-10-40	New England Fish Co	Delicatessen	Seattle, Wash	San Francisco	Fish	2,190
4-10-40	Hershey Packing Co	Same	Seattle, Wash	San Francisco	Frozen Foods	495
4-11-40	San Juan Fish Co	Tofanelli	Seattle, Wash	Sacramento	Salt and Smoked Fish	225
4-10-40	National Cash Reg	A. B. Hintza	San Francisco	Spokane, Wash. via Seattle.	Cash Register	170
4-10-40	Eastman Kodak Co	Shaw & Borden Co	San Francisco	Spokane via Seattle	Hyposulphite Soda and Photo Material.	319
4-10-40	Cummer Prods	F. W. Woolworth	San Francisco	Spokane via Seattle	Clean Compound in Glass.	66
4-10-40	Canada Dry Ginger Ales	Washington State Liquor Control Bd.	San Francisco	Seattle, Wash	Liquors	2,100
4-10-40	Anaconda Wire & Cable	Globe Elect. Co	San Francisco	Seattle, Wash	Copper Wire	5,456
4-10-40	Pohten Mfg. Co	Western Auto Supply Co	Berkeley	Seattle, Wash	Auto Trays	56
4-10-40	Pacific Rubber & Tire Co	Western Auto Supply Co	Oakland, Calif	Seattle, Wash	Rubber Flaps	38
4-10-40	Axton Fisher Tob Co	S. Lavroff, Inc	San Francisco	Tacoma, Wash	Tobacco	40
4-10-40	Horlicks Malted Milk	Tacoma Drug Co	San Francisco	Tacoma, Wash	Malted Milk	220
4-10-40	Ironized Yeast Co	Smiley Sales Co	San Francisco	Seattle, Wash	Patent Med	45
4-10-40	Ironized Yeast Co	Sears Roebuck & Co	San Francisco	Seattle, Wash	Patent Med	90
4-11-40	Anaconda Wire & Cable	Stusser Elec. Co	San Francisco	Seattle, Wash	Copper Wire	1,305
4-13-40	Al. H. Meyer	J. H. Carlson	San Francisco	Seattle, Wash	Fish Livers	4,331
4-11-40	H. E. Marshall	Western Auto Supply Co	San Francisco	Seattle, Wash	Steel Clips	59
4-11-40	Axton Fisher	West Coast Groc	San Francisco	Chehalis, Wash	Tobacco	195
4-11-40	Haslett	Hicks Grocery	San Francisco	Bend, Ore., via Portland, Oreg.	Drugs	156
4-11-40	Haslett	Pioneer Tobacco	San Francisco	Klamath Falls via Medford.	Drugs	234
4-11-40	Haslett	Hicks Grocery	San Francisco	Klamath Falls via Medford.	Drugs	156
2528						
4-12-40	R. G. LeTourneau	Northern Comm Co	Stockton, Calif	Seattle, Wash	Castings	152
4-12-40	R. G. LeTourneau	Western Tractor	Stockton, Calif	Seattle, Wash	Tractor Parts	106
4-12-40	R. G. LeTourneau	Northern Comm. Co	Stockton, Calif	Seattle, Wash	Tractor Parts	24
4-12-40	R. G. LeTourneau	Western Tractor	Stockton, Calif	Seattle, Wash	Tractor Parts	1,150
4-12-40	R. G. LeTourneau	Loggers & Cont	Stockton, Calif	Eugene, Oreg	Castings	676
4-10-40	Pacific Manifolding Book Co	Seattle Luggage	Emeryville, Calif	Seattle, Wash	Prtd Forms	100
4-12-40	Garlock Packing Co	Same	San Francisco	Seattle, Wash	Packing	30
4-12-40	Canada Dry Ginger Ales	Wash. State Liquor Control Board	San Francisco	Seattle, Wash	Whiskey	84
4-12-40	Anchor Hocking Corporation	Bartell Drug Co	San Francisco	Seattle, Wash	Metal Caps	27
4-10-40	The Glidden Co	Western Auto Supply Co	San Francisco	Seattle, Wash	Turpentine and paint	3,620
4-12-40	W. J. Burke & Co	Siems Drake Puget Sound Co	San Francisco	Seattle, Wash	Reinforcing Steel and Bending hickies.	127
4-11-40	Electrogas Div. of Payne Furnace	Seattle Gas Co	San Francisco	Seattle, Wash	Hot Air Furnaces and Parts.	900
4-11-40	Bowman Dante Cummins	A. A. Thorn	San Francisco	Portland-Los Angeles via Seattle.	Advert. Matter	30

Date	Consignor	Consignee	Pt. of Origin	Destination	Commodity	Weight
4-11-40	Bowman Dante Cummins	C. Carpenter	San Francisco	Everett Wash. via Seattle.	Advert. Matter	40
4-12-40	R. A. Johnston	J. J. Newberry	San Francisco	Everett, Wash. via Seattle.	Choc. Syrup	125
4-13-40	Krimko Co	Arden Farms	Oakland, Calif.	Spokane, Wash. via Seattle.	Choc. Syrup	372
4-15-40	Cownes Drug Store	John Wyeth & Bros.	San Francisco	Spokane, Wash. via Seattle.	Drugs	99
4-13-40	L. A. Young	Novelty Carriage	San Francisco	Spokane, Wash. via Portland.	Mdse	465
4-13-40	Bryant Elect	Westinghouse	San Francisco	Spokane, Wash. via Portland.	Switches	188
4-13-40	Axton Fisher Tob. Co.	United Retail	San Francisco	Spokane, Wash. via Portland.	Tobacco	99
4-13-40	National Dollar Stores	Same	San Francisco	Spokane, Wash. via Portland.	Dry Goods	505
4-13-40	Haslett	Payless	San Francisco	Spokane, Wash. via Portland.	Drugs	90
4-13-40	Haslett	Manors, Inc	San Francisco	Lewiston via Portland.	Drugs	95
2529						
4-13-40	Haslett	Nez Pierce Drug	San Francisco	Lewiston via Portland	Drugs	79
4-13-40	Axton Fisher	Safeway	San Francisco	Walla Walla via Portland.	Tobacco	99
4-13-40	Axton Fisher	Foster	San Francisco	Hoquiam via Portland.	Tobacco	66
4-13-40	D. King & Co	Pacific Prod. Co.	San Francisco	Portland, Oreg.	Groc	300
4-13-40	D. King & Co	Merchants Whsle Grocery Co.	San Francisco	Portland, Oreg.	Groc	150
4-13-40	Haslett	Meir & Frank	San Francisco	Portland, Oreg.	Drugs	300
4-13-40	Haslett	Montgomery & Ward	San Francisco	Portland, Oreg.	Drugs	225
4-13-40	Haslett	Maplewood	San Francisco	Portland, Oreg.	Drugs	275
4-13-40	Haslett	McDonald Drug	San Francisco	Eugene, Oreg.	Drugs	88
4-15-40	Calif. Frosted Foods	James Fenwicke	Sacramento	Portland, Oreg.	Frozen Foods	230
4-13-40	Wright Drugs	F. Stearn Co.	Seattle	San Francisco	Drugs	55
4-13-40	George Ellis	Paul Ellis	Seattle	San Francisco	Personal Effects	125
4-13-40	Northern Radio	Burgess Battery	Seattle	San Francisco	Radio Transmitter	1,052
4-13-40	Cascade Mach.	Lerer Bros.	Seattle	San Francisco	Machinery	315
4-13-40	Olympic Hotel	Mr. Ardley	Seattle	San Francisco	Salesman Samples	53
4-13-40	George Wahl	Tai Hing Chong	Seattle	San Francisco	Frozen Fish	1,905
4-13-40	George Wahl	Ying Chong Co.	Seattle	San Francisco	Frozen Fish	1,830
4-13-40	New England Fish Co.	Delicatessen Supp.	Seattle	San Francisco	Frozen Fish	1,250
4-13-40	New England Fish Co.	A. LaRocca	Seattle	San Francisco	Crab Meat	1,080
4-13-40	Whiz Fish Co.	Al H. Meyer	Seattle	San Francisco	Livers	800
4-13-40	S. A. Moffett Co.	Enjoy Packing Co.	Seattle	San Francisco	Frozen Fruits	870

4-13-40	Washington Fish Co	Standard Fish Co	Seattle	San Francisco	Shrimp meat	125
4-13-40	Washington Fish Co	A. Paladini	Seattle	San Francisco	Fish	360
4-13-40	S. A. Moffett Co	Standard Egg Co	Seattle	San Francisco	Frozen Fruits and Vegetables.	2,350
4-13-40	Rockpoint Oyster Co	A. Paladini	Seattle	San Francisco	Oysters	380
4-13-40	S. A. Moffett Co	Same	Seattle	San Francisco	Frozen Fruits and Vegetables.	976
4-13-40	S. A. Moffett Co	Same	Salem, Oreg	San Francisco	Frozen Fruits and Vegetables.	640
4-13-40	S. A. Moffett Co	Standard Egg Co	Sumner, Wash	San Francisco	Frozen Fruits and Vegetables.	4,320
4-13-40	United Autographic Register Co	Same	Seattle, Wash	Oakland, Calif	Printed Forms	11
4-13-40	General Motors	Same	Seattle, Wash	Oakland, Calif	Motor	138
4-13-40	New England Fish Co	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	360
2530						
4-13-40	New England Fish Co	Norfish Sales	Seattle, Wash	Oakland, Calif	Fish	360
4-13-40	General Motors	Same	Seattle, Wash	Oakland, Calif	Auto Parts	912
4-13-40	Siberian Fish Co	Delicatessen	Seattle, Wash	Oakland, Calif	Fish Eggs	930
4-13-40	Olympic Hotel	Robert Graw	Seattle, Wash	Oakland, Calif	Sales Samples	315
4-13-40	Fentron Steel Wks	San Mateo Cons	Seattle, Wash	San Mateo via Oakland.	Steel Sash	800
4-13-40	New England Fish Co	A. Paladini	Seattle, Wash	Oakland, Calif	Fish	1,800
4-13-40	S. A. Moffett	Same	Seattle, Wash	Oakland, Calif	Frozen Foods	700
4-13-40	S. A. Moffett	Wilson's Ltd	Seattle, Wash	Berkeley, Calif	Frozen Foods	1,305
4-13-40	S. A. Moffett	Mary Ellen Inc	Salem, Oreg	Berkeley, Calif	Frozen Foods	1,305
4-13-40	S. A. Moffett	Mary Ellen Inc	Portland, Oreg	Berkeley, Calif	Frozen Foods	2,250
4-13-40	Wright Candy Co	Jaffe Bros	Portland, Oreg	Oakland, Calif	Candy	170
4-13-40	Electric Steel Fdry	Union Oil Co	Portland, Oreg	Oakland, Calif	Castings	750
4-13-40	Wenatchee Rex	The Bert McDowell Co	Seattle, Wash	Sacramento, Calif	Insecticide	216
4-13-40	Whiz Fish Co	Pacific Fish Co	Seattle, Wash	Sacramento, Calif	Fish	370
4-13-40	Whiz Fish Co	Golden's Market	Seattle, Wash	Sacramento, Calif	Fish	216
4-15-40	New Wash Oyster Co	West Coast Crab	Seattle, Wash	Oakland, Calif	Oysters	384
4-15-40	Haines Oyster Co	Pacific Fish	Seattle, Wash	Oakland, Calif	Fish	360
4-15-40	Haines Oyster Co	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	180
4-15-40	Main Fish Co	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	540
4-15-40	Main Fish Co	Pacific Fish	Seattle, Wash	Oakland, Calif	Fish	1,410
4-15-40	Main Fish Co	A. Paladini	Seattle, Wash	Oakland, Calif	Fish	3,960
4-15-40	North End	Earnshaw Knit Co	Seattle, Wash	San Francisco	Mdse	53
4-15-40	Washington Fish Co	Alioto Fish Co	Seattle, Wash	San Francisco	Fish	180
4-15-40	Hamilton Drug Co	F. Stearns	Seattle, Wash	San Francisco	Drugs	80
4-15-40	I. F. Laucks Co	L. F. Phelps	Seattle, Wash	Oakland, Calif	Glue	75
4-15-40	Albers Bros. Mill Co	Same	Seattle, Wash	Oakland, Calif	Advert. Matter	77
4-15-40	The Jaite Co	Calif. Spray Co	Portland, Oreg	Richmond, Calif	Bags	1,865
4-15-40	Mrs. R. Moore	R. Moore	Portland, Oreg	Oakland, Calif	P. E	605
4-15-40	Whiz Fish Co	P. Busallachi	Seattle, Wash	Stockton, Calif	Fish	1,980
4-15-40	O. H. Faulstitch	J. H. Turenr	Seattle, Wash	Stockton, Calif	Horseradish	400
4-16-40	Sebastian Stuart	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	363
4-16-40	San Juan Fish Co	Pacific Fish Co	Seattle, Wash	Oakland, Calif	Fish	540

Date	Consignor	Consignee	Pt. of Origin	Designation	Commodity	Weight
4-16-40	Haines Oyster Co	Producers Trad	Seattle, Wash	Oakland, Calif	Shrimp, Frozen	735
4-16-40	Six Robblees	Oil Purifier	Seattle, Wash	Oakland Calif	Auto Parts	1,090
4-16-40	San Juan Fish Co	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	150
2531						
4-16-40	R. G. LeTourneau	Western Tractor	Stockton, Calif	Seattle, Wash	Tractor Parts	772
4-16-40	R. G. LeTourneau	Northern Comm	Stockton, Calif	Seattle, Wash	Tractor Parts	73
4-16-40	R. G. LeTourneau	Loggers & Cont	Stockton, Calif	Eugene, Oreg	Tractor Parts	488
4-12-40	Super Mold	Master Service	Stockton, Calif	Eugene, Oreg	Tire Repair Tools	2,650
4-13-40	Krim KoCo	Arden Farms	Oakland, Calif	Spokane, Wash., via Seattle.	Choc. Syrup	372
4-15-40	Schroeder Dray	Cowens Drug	San Francisco	Spokane, via Seattle	Drugs	99
4-13-40	Atkins, Kroll	Northwest Brush	San Francisco	Spokane, via Seattle	Palmyra Fibre	336
4-15-40	F. A. B. Mfg. Co	Standard Equip	Oakland, Calif	Seattle, Wash	Auto Parts	60
4-13-40	F. A. B. Mfg. Co	Standard Equip	Oakland, Calif	Seattle, Wash	Tubes and Shafts	37
4-13-40	Laher Spring	Same	Oakland, Calif	Seattle, Wash	Tires and Tubes	1,096
4-12-40	Oil Purifiers	Six Robblees	Oakland, Calif	Seattle, Wash	Auto Parts	388
4-15-40	L. A. Young Spring	Oakland, Western Auto Spl	Oakland, Calif	Seattle, Wash	Cots Springs	215
4-15-40	The Glidden Co	Western Auto Spl	San Francisco	Seattle, Wash	Paint	170
4-15-40	Gadner Denver Co	Gardner-Denver	San Francisco	Seattle, Wash	Air Comp	625
4-15-40	Haslett Whse	G. O. Guy, Inc	San Francisco	Seattle, Wash	Malted Milk	140
4-15-40	Axton Fisher Tob	Payless Drug	San Francisco	Bremerton, Wash	Cigarettes	58
4-15-40	Bowman Dante Cumings	Cecil E. Flory	San Francisco	Clarkston, Wash., via Seattle.	Ptd. Advt	20
4-15-40	Haslett Whse	Whatcom County Dairymen's Assn.	San Francisco	Bellingham, Wash., via Seattle.	Citric Acid	269
4-15-40	Haslett Whse	Olympic Dairy	San Francisco	Tacoma, Wash	Choc Syrup	232
4-16-40	Calif. Meat Co	A. J. Meaker Co	San Francisco	Seattle, Wash	Frozen Liver	100
4-16-40	Axton Fisher	Pay Rite	San Francisco	Raymond, Wash., via Portland.	Tobacco	53
4-16-40	Axton Fisher	Whitaker	San Francisco	Portland	Tobacco	66
4-16-40	Axton Fisher	Tillamook Who	San Francisco	Tillamook, Oreg	Tobacco	66
4-16-40	Axton Fisher	Pacific Fruit	San Francisco	Portland, Oreg	Tobacco	66
4-16-40	Haslett Whse	National Drug	San Francisco	Grants Pass, via Medford.	Drugs	20
4-16-40	L. A. Young Spring	Novelty Car. Wks	Oakland, Calif	Spokane, Wash., via Seattle.	Springs	310
4-16-40	National Dollar	National Dollar	San Francisco	Spokane, Wash., via Seattle.	Dry Goods	358
4-16-40	Geo. E. Madison Co	O. L. Hubbard Sales	San Francisco	Spokane, via Seattle	Drugs	300
4-16-40	Eastman Kodak	Shaw & Borden	San Francisco	Spokane, via Seattle	Photo Material	142

2532						
4-16-40	Oil Purifiers, Inc	Glenn Carrington	Oakland, Calif	Seattle, Wash	Auto Parts	414
4-16-40	Laher Spring	Same	Oakland, Calif	Seattle, Wash	Auto Parts	344
4-16-40	Haslett Whse	Bartell Drug	San Francisco	Seattle, Wash	Drugs	71
4-16-40	Mosaic Tile	Rodgers Tile	San Francisco	Seattle, Wash	Tile	18
4-16-40	Goodyear Tire	Comm. Auto Serv	Oakland, Calif	Seattle, Wash	Storage Batt	17
4-17-40	Axton Fisher	Peter Jacoy	San Francisco	Spokane, Wash., via Seattle.	Cigarettes	116
4-17-40	Axton Fisher	Pacific Fruit	San Francisco	Tacoma, Wash	Cigarettes	66
4-18-40	Nat'l Paper Prod	Nat'l PPS Co	San Francisco	Seattle, Wash	Cabinets	450
4-18-40	Bryant Electric	Westinghouse	San Francisco	Spokane, via Seattle	Receptacles, Switches, Plates.	1,158
4-18-40	Electro Gas Div	Seattle, Gas Co	San Francisco	Seattle, Wash	Furnaces	300
4-18-40	Chas. W. Carter	Puget Sound Navy Yard	San Francisco	Bremerton, Wash. via Seattle.	Truck Chains	375
4-18-40	Schroeder Dray	McKesson, Robbins	San Francisco	Spokane, Wash., via Seattle, Wash.	Drugs	165
4-18-40	Axton Fisher	Portland Co-op	San Francisco	Portland, Oreg	Tobacco	66
4-18-40	Electrogas	McPherson	San Francisco	Portland, Oreg	Furnaces	465
4-18-40	Axton Fisher	F. G. Foster	San Francisco	Hoquiam, Wash., via Portland, Oreg.	Tobacco	66
4-18-40	Haslett Whse	Gen. Paint	San Francisco	Portland, Oreg	Paint	3,452
4-18-40	Haslett Whse	Hudson Duncan	San Francisco	Portland, Oreg	Drugs	510
4-18-40	King & Co	Portland Btg	San Francisco	Portland, Oreg	Labels	2,679
4-18-40	Gen. Cable Co	Rosbors	San Francisco	Springfield, Oreg., via Eugene.		556
4-18-40	L. F. Noonan	N. W. Fruit Exch	Santa Clara	Wenatchee, Wash., via Seattle.	Frozen Vegetables	12,214
4-19-40	Super Mold	Blausteins	Stockton, Calif	Seattle, Wash	Tire Repair	225
4-19-40	R. G. LeTourneau	Hofius Ferris	Stockton, Calif	Spokane, Wash., via Seattle.	Tractor Parts	165
4-19-40	Ironized Yeast	Tacoma Drug	San Francisco	Tacoma, Wash	Drugs	180
4-19-40	Haslett Whse	Tacoma Drug	San Francisco	Tacoma, Wash	Drugs	136
4-19-40	Haslett Whse Co	McKesson, Robbins	San Francisco	Seattle, Wash	Choc. Syrup	734
4-19-40	Oil Purifiers	Six Robblees	Oakland, Calif	Seattle, Wash	Auto Parts	136
4-19-40	Borden Co	Borden Co	San Francisco	Seattle, Wash	Powd. Lemon Jc	938
4-19-40	York Ice Machy	York Ice Machy	San Francisco	Seattle, Wash	Gas Comp	790
4-19-40	Pittsburg Chem	Ref. Parts Sply	San Francisco	Spokane, Wash., via Seattle.	M. C. Gas	500
4-19-40	Schroeder Dray	Manlowe Trfr	San Francisco	Spokane, via Seattle	Drugs	419
4-19-40	L. A. Young Spring	Novelty Carriage	Oakland, Calif	Spokane, via Seattle	Spring Assem	1,530
2533						
4-19-40	Carley & Hamilton	Standard Paper	San Francisco	Tacoma, Wash	Paper Tags	50
4-19-40	Carley & Hamilton	M. D. Hill Drug	San Francisco	Pt. Townsend, Wash	Crepe Paper	37
4-20-40	Connolly Bedding	Wenatchee Mattress	San Francisco	Wenatchee, Wash., via Seattle.	C. P. Goods	35
4-20-40	Luther	Whiz Fish Co	San Francisco	Seattle, Wash	Frozen Scallops	1,000

Date	Consignor	Consignee	Pt. of Origin	Destination	Commodity	Weight
4-20-40	Deckshire Marty	Metro. Grocery	San Francisco	Seattle, Wash	Cheese	330
4-22-40	Haslett Whse	Precedis Paint	San Francisco	Seattle	Ester Gum	2,825
4-22-40	Schwabacher Frey	Lowman & Hanford	San Francisco	Seattle, Wash	Ptd. Forms	900
4-22-40	Schwabacher Frey	Lowman & Hanford	San Francisco	Seattle, Wash	Ptd. Forms	400
4-22-40	Haslett Whse	Glaser Bros	San Francisco	Seattle, Wash	Chew. Gum	140
4-22-40	Haslett Whse	McKesson, Robbins	San Francisco	Spokane, Wash., via Seattle.	Drugs	132
4-22-40	Axton Fisher Tob	L. A. Nelson	San Francisco	Spokane, Wash	Cigarettes	100
4-22-40	F. A. B. Mfg. Co	Standard Equip	Oakland, Calif	Seattle, Wash	Auto Parts	5,970
4-22-40	Oil Purifiers	Six Robblees	Oakland, Calif	Seattle, Wash	Auto Parts	360
4-23-40	National Store	Same	San Francisco	Spokane, Wash., via Seattle.	Dry Goods	316
4-17-40	Albers Bros	Same	Seattle, Wash	Oakland, Calif	Ptd. Adv. Matter	335
4-17-40	New England Fish	Norfish Sales	Seattle, Wash	Oakland, Calif	Fish	360
4-17-40	New England Fish	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	720
4-17-40	Lyons, Magnus	Same	Portland, Oreg	San Francisco	Frozen Fruit	10,000
4-17-40	R. D. Bodle Co	Same	Seattle, Wash	San Francisco	Frozen Fruit	822
4-17-40	Cascade Frozen	Tiedeman & McMor	Seattle, Wash	San Francisco	Frozen Fruit	495
4-17-40	City Ice	L. DeMartini	Seattle, Wash	San Francisco	Frozen Fruit	500
4-17-40	New England Fish	Puget Oyster	Seattle, Wash	San Francisco	Fish	360
4-17-40	New England Fish	A. Friscia	Seattle, Wash	San Francisco	Fish	360
4-17-40	New England Fish	A. LaRocca	Seattle, Wash	San Francisco	Fish	360
4-17-40	Pacific Coast Cod	Wm. G. Goldberg	Seattle, Wash	San Francisco	Salt Fish	180
4-17-40	Apex Printing	Shell Oil	Seattle, Wash	San Francisco	Prtd. Matter	275
4-17-40	North Pacific	State Ice	Seattle, Wash	Sacramento	Prtd. Matter	M
4-17-40	O. H. Faulstitch	J. H. Turner	Seattle, Wash	Stockton, Calif	Horseradish	400
4-17-40	The Laite Co	S. C. Port. Cement	Portland, Oreg	Stockton, Calif	Paper bags	2,630
4-20-40	Geo. Wahl	Tai Hing Chong	Seattle, Wash	San Francisco	Fish	425
4-20-40	Geo. Wahl	Ying Chong	Seattle, Wash	San Francisco	Fish	490
4-20-40	Siberian Fish	Delicatessen	Seattle, Wash	San Francisco	Salt Fish	375
4-20-40	McCallum Legaz	S. F. Internat'l	Seattle, Wash	San Francisco	Fish	1,832
4-20-40	Washington Fish	Producers Trading	Seattle, Wash	San Francisco	Fish	360
4-20-40	Washington Fish	A. Paladini	Seattle, Wash	San Francisco	Fish	720
4-20-40	New England Fish	Delicatessen	Seattle, Wash	San Francisco	Fish	2,880
4-20-40	Hershey Packing	Same	Seattle, Wash	San Francisco	Frozen Foods	3,400
4-20-40	Booth Fisheries	S. F. Fish	Seattle, Wash	San Francisco	Fish	1,800
4-20-40	Whiz Fish	S. F. Fish	Seattle, Wash	San Francisco	Fish	1,474
2534						
4-20-40	Seattle Chain	Round Calif	Seattle, Wash	San Francisco	Chain	72
4-20-40	Burroughs	Same	Seattle, Wash	San Francisco	Add. Mach	75
4-20-40	Apex Prtg	Shell Oil	Seattle, Wash	San Francisco	Prtd. Matter	1,030
4-20-40	Albers Bros	Same	Seattle, Wash	San Francisco	Prtd. Advt	143
4-20-40	Allis Chalmers	Same	Seattle, Wash	San Francisco	Elec. Motor	615

4-20-40	Tacoma Boiler	Matinolich	Seattle, Wash	San Francisco	Boilers	5,500
4-20-40	Western Gear	Pacific Gear	Seattle, Wash	San Francisco	Stl. Cstgs	283
4-20-40	New England Fish	Norfish Sales	Seattle, Wash	Oakland, Calif	Fish	1,080
4-20-40	New England Fish	Paladini	Seattle, Wash	Oakland, Calif	Fish	360
4-20-40	Palmer Supply	Merco Nordstrom	Seattle, Wash	Oakland, Calif		34
4-20-40	Albers Bros	Same	Seattle, Wash	Oakland, Calif	Advt. Matter	431
4-20-40	Laher Spring	Same	Seattle, Wash	Oakland, Calif	Auto Parts	1,120
4-20-40	McCallum Legaz	West. Calif	Seattle, Wash	Oakland, Calif	Fish	1,080
4-20-40	Washington Fish	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	378
4-20-40	New England Fish	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	540
4-20-40	Colletti	Paladini	Seattle, Wash	Oakland, Calif	Fish	3,244
4-20-40	Colletti	Paladini	Seattle, Wash	Oakland, Calif	Fish	1,800
4-20-40	Colletti	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	360
4-20-40	Peggy Kearns	Ken Cannon	Seattle, Wash	Oakland, Calif	P/E	115
4-20-40	Wiltshire	Calif. Ink	Portland, Oreg	San Francisco	Engr. Mach	275
4-20-40	Novelty Mill	Mannings	Portland, Oreg	San Francisco	Flour	98
4-20-40	Whiz Fish	Al Meyers	Seattle, Wash	San Francisco	Fish	2,025
4-20-40	Whiz Fish	Pacific Fish	Seattle, Wash	Sacramento	Fish	352
4-20-40	Whiz Fish	S. F. Fish	Seattle, Wash	Sacramento	Fish	360
4-22-40	Haines Oyster	Pacific Fish	Seattle	Oakland	Fish	225
4-22-40	Haines Oyster	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	180
4-22-40	Six Robblees	Oil Purifiers	Seattle, Wash	Oakland, Calif	Auto Parts	320
4-22-40	Rockpoint Oyster	Joe Pucci	Seattle, Wash	Oakland, Calif	Fish	810
4-22-40	Pacific Coast Cod	Mattenci Venici	Seattle, Wash	San Francisco	Salt Fish	540
4-22-40	N. Halpern	T. M. Gilbourn	Seattle, Wash	San Francisco	Salt Fish	165
4-22-40	Mrs. K. Daggett	E. Daggett	Seattle, Wash	San Francisco	P/E	220
4-22-40	Tom Jacobs	Lever Bros	Seattle, Wash	San Francisco		121
4-22-40	Wilbur Ellis	Same	Seattle, Wash	San Francisco	P/E	190
4-22-40	Washington Fish	Alioto Fish	Seattle, Wash	San Francisco	Fish	180
4-22-40	Haines Oyster	Producers Trading	Seattle, Wash	San Francisco	Fish	360
4-22-40	Lehman Bros	Coast Dakota	Seattle, Wash	San Francisco		294
4-22-40	Colletti	S. F. Int'l	Seattle, Wash	San Francisco	Fish	1,440
4-22-40	Washington Fish	Meredith Fish	Seattle, Wash	Sacramento	Fish	1,093
4-22-40	San Juan Fish	Pacific Fish	Seattle, Wash	Sacramento	Fish	900
4-22-40	Faulstitch	Turner	Seattle, Wash	Stockton, Calif	Horseradish	700
4-22-40	Whiz Fish	S. F. Fish	Seattle, Wash	Sacramento, Calif	Fish	576
2535						
4-23-40	N. Halpern	N. Polshood	Seattle, Wash	San Francisco	Salt Fish	330
4-23-40	Whiz Fish	Al. H. Myers	Seattle, Wash	San Francisco	Fish	1,260
4-23-40	American Pulley	Same	Seattle, Wash	San Francisco		85
4-23-40	Rockpoint Oyster	A. Paladini	Seattle, Wash	San Francisco	Oysters	972
4-23-40	New England Fish	West Coast	Seattle, Wash	Oakland, Calif	Fish	1,800
4-23-40	New England Fish	Pacific Fish	Seattle, Wash	Oakland, Calif	Fish	759
4-24-40	Rainier Electric	Steifvaters	Seattle, Wash	San Francisco		23
4-24-40	Pacific Coast Cod	Wm. G. Goldberg	Seattle, Wash	San Francisco	Salt Fish	450
4-24-40	New England Fish	Delicatessen	Seattle, Wash	San Francisco	Fish	1,800
4-24-40	Northern Prod	Central Del	Seattle, Wash	Oakland, Calif	Fish	330
4-24-40	Lyons, Magnus	Same	Portland, Oreg	San Francisco	Frozen Fruit	12,186

Date	Consignor	Consignee	Pt. of Origin	Destination	Commodity	Weight
4-24-40	Elec. Steel	Hydraulic Dr	Portland, Oreg	Oakland, Calif	Grader Blds	568
4-24-40	Booth Fisheries	Meredith Fish	Seattle, Wash	Sacramento	Fish	216
4-22-40	Haslett Whse	Portland Paint	San Francisco	Portland, Oreg		1,926
4-22-40	Haslett Whse	McKesson, Robbins	San Francisco	Portland, Oreg	Drugs	860
4-22-40	Haslett Whse	McKesson, Robbins	San Francisco	Portland, Oreg	Drugs	190
4-22-40	Haslett Whse	Equip. Sales	San Francisco	Portland, Oreg		260
4-22-40	Haslett Whse	McKesson, Robbins	San Francisco	Portland, Oreg	Drugs	112
4-22-40	King & Co	Imp Bottling	San Francisco	McMinnville, Oreg., via Portland.	Labels	21
4-22-40	Whitaker	Colyears	San Francisco	Portland	Auto Pts	134
4-22-40	R. G. LeTourneau	Log. & Cont	Stockton, Calif	Eugene, Oreg	Tractor Pts	205
4-23-40	Schroeder Dray	Manlowe Transfer	San Francisco	Spokane, Wash., via Seattle.	Drugs	278
4-23-40	Axton Fisher Tob	K. Holman	San Francisco	Spokane, Wash., via Seattle.	Adv. Matter and cigarettes.	146
4-23-40	General Cable	Westinghouse	San Francisco	Spokane, Wash., via Spokane.	Copper Wire	2,470
4-24-40	Axton Fisher	Brewster Cigar	San Francisco	Seattle, Wash	Tobacco	40
4-24-40	Schwabacher Frey	Lowman, Hanford	San Francisco	Seattle, Wash	Ptd. Forms	87
4-24-40	Haslett Whse Co	West Coast Drug	San Francisco	Seattle, Wash	Drugs	210
4-24-40	Haslett Whse Co	Bartell Drugs Co	San Francisco	Seattle, Wash	Drugs	135
4-24-40	F. A. B. Mfg Co	Standard Equip	Oakland, Calif	Seattle, Wash	Drive Line	117
4-24-40	L. A. Young Co	Parsons	San Francisco	Spokane, via Seattle, Wash.	Springs	195
4-25-40	Electrogas	McPherson	San Francisco	Portland, Oreg	Furnaces	180
4-25-40	Haslett Whse	McKesson	San Francisco	Portland, Oreg	Drugs	264
4-25-40	Whitaker Battery	Cronin	San Francisco	Portland, Oreg	Auto Pts	954
4-25-40	Axton Fisher	J. R. Smith	San Francisco	Portland, Oreg	Tobacco	66
4-25-40	Haslett Whse	McKesson	San Francisco	Portland, Oreg	Drugs	225
4-25-40	National Carbon	Coeur D'Alene Wallace	San Francisco	Wallace, Idaho, via Portland.		525
2536						
4-25-40	Axton Fisher	Mer. Whsle. Gro	San Francisco	Portland, Oreg	Tobacco	66
4-25-40	L. A. Young Spring	Parsons	San Francisco	Spokane, Wash., via Portland.	Springs	195
4-25-40	Haslett Whse. Co	J. J. Newberry Co	San Francisco	Klamath Falls via Medford.	Drugs	108
4-24-40	R. G. LeTourneau	C. E. O'Neal Co	Stockton, Calif	Connell, via Seattle	Tractor Pts	98
4-27-40	Wn. Packers	Kelly, Clarke	Puyallup, Wash	San Francisco	Frozen Foods	5,000
4-27-40	New England Fish	West Coast	Seattle, Wash	Oakland, Calif	Fresh Fish	1,800
4-27-40	New England Fish	Norfish Sales	Seattle, Wash	Oakland, Calif	Fish	639
4-27-40	Mutual Materials	G. A. Anderson	Seattle, Wash	Oakland, Calif	P	25
4-27-40	Standard Equip	F. A. B. Mfg	Seattle, Wash	Oakland, Calif	Auto Pts	125

4-27-40	New England Fish	LaRocca	Seattle, Wash	San Francisco	Fish	720
4-27-40	New England Fish	Delicatessen	Seattle, Wash	San Francisco	Fish	1,800
4-27-40	Washington Fish	Paladini	Seattle, Wash	San Francisco	Fish	360
4-27-40	J. W. Graham	Calif. School	Seattle, Wash	San Francisco	Books	115
4-27-40	Pacific Label	F. E. Mulnix	Seattle, Wash	San Francisco	Labels	67
4-27-40	American Pulley Co	Same	Seattle, Wash	San Francisco	Iron Pulley	75
4-27-40	Perfection Smokery	Atlantic Fish	Seattle, Wash	San Francisco	Smoked Fish	450
4-27-40	Kelly Sales	R. Kelly	Seattle, Wash	San Francisco	Ink	30
4-27-40	J. C. Coart	G. T. Coart	Seattle, Wash	San Francisco	P E	39
4-27-40	Whiz Fish	A. H. Meyer	Seattle, Wash	San Francisco	Fish	1,413
4-27-40	San Juan Fish	Meredith	Seattle, Wash	Sacramento	Fish	1,620
4-26-40	Metalead Prod	Parker Painting	Sunnyvale, Calif	Tacoma, Wash	Met. Lead Paste	1,644
4-25-40	Lathan Co	Western Auto Spl	San Francisco	Seattle, Wash	Auto Pts	109
4-27-40	Anna Thompson	Lakewood Saxton	San Francisco	Tacoma, Wash	Pottery	75
4-25-40	Haslett Whse	C. R. Watts	San Francisco	Seattle, Wash	Waterproofing	550
4-25-40	Haslett Whse	McKesson, Robbins	San Francisco	Seattle, Wash	Drugs	132
4-25-40	Haslett Whse	Bartell Drug	San Francisco	Seattle, Wash	Malted Milk	415
4-26-40	Oil Purifiers	Six Robblees	San Francisco	Seattle, Wash	Auto Pts	191
4-27-40	Duncan Nicol Co	Frederick, Nelson	San Francisco	Seattle, Wash	Frozen Juice	1,175
4-26-40	F. A. B. Mfg. Co	Standard Equip	Oakland, Calif	Seattle, Wash	Auto Pts	6,065
4-26-40	Haslett Whse	Schwabacher Bros	San Francisco	Seattle, Wash	Malted Milk	160
4-26-40	Haslett Whse	John L. Wick	San Francisco	Seattle, Wash	Steel Rods	47
4-27-40	Anaconda Wire	Stusser Elec	San Francisco	Seattle, Wash	Coils Flex. Stl	4'0
4-27-40	Oil Furifiers	Six Robblees	Oakland, Calif	Seattle, Wash	Auto Pts	1,741
4-27-40	Schroeder Dray	Manlowe Transfer	San Francisco	Spokane, via Portland	Drugs	285
4-27-40	C. J. Gratiot	Jensen Byrd	San Francisco	Spokane, via Portland	Drugs	65
4-27-40	Whitaker Battery	Cronin Co	San Francisco	Portland, Oreg	Auto Pts	343
2537						
4-27-40	Haslett Whse	Fred Meyer	San Francisco	Portland, Oreg.	Drugs	225
4-27-40	Haslett Whse	McKesson Robbins	San Francisco	Spokane, Wash., via Portland, Oreg.	Drugs	138
4-27-40	Ray Burner	Bellinger	San Francisco	Wallace, Idaho, via Portland.		111
4-27-40	Majestic Paste	Wing Wah Lung	San Francisco	Spokane, via Portland		550
4-26-40	R. G. LeTourneau	Western Tractor	Stockton, Calif	Seattle, Wash	Tractor Pts	508
4-26-40	R. G. LeTourneau	Webb Tractor	Stockton, Calif	Yakima, Wash., via Seattle.	Tractor Pts	521
4-26-40	R. G. LeTourneau	Hofius Ferris	Stockton, Calif	Spokane, via Seattle	Tractor Pts	274
4-29-40	Whiz Fish Co	Goldens	Seattle, Wash	Sacramento	Fish	227
4-29-40	Whiz Fish Co	S. F. Fish	Seattle, Wash	Sacramento	Fish	1,281
4-29-40	Faulstitch	J. H. Turner	Seattle, Wash	Stockton, Calif	Horseradish	400
4-29-40	Olympic Fdry	Round Calif	Seattle, Wash	San Francisco	Rgh. Stl. Cstgs	450
4-29-40	G. T. Henderson	J. Smith	Seattle, Wash	Oakland, Calif	P/E	115
4-29-40	Mrs. Wetzel	Olson Rug Co	Seattle, Wash	San Francisco	Rug Material	25
4-29-40	Nat'l Fruit Can	Pacific Prod	Seattle, Wash	San Francisco	Frozen Berries	462
4-29-40	Johnson Doell	Eastman Kodak	Seattle, Wash	San Francisco	Photo Material	70
4-29-40	Olympic Hotel	R. L. Marienthal	Seattle, Wash	San Francisco	Slsman's Samples	465
4-29-40	Todd Hdwe	Balsen Hamilton	Portland, Oreg	San Francisco	Hdwe	91

Date	Consignor	Consignee	Pt. of Origin	Destination	Commodity	Weight
4-30-40	Motor Parts	Westinghouse	Seattle, Wash	Emeryville		150
4-30-40	Albers Bros	Same	Seattle, Wash	Oakland, Calif	Advt. Matter	622
4-30-40	Wash Stove	Elec. Service	Seattle, Wash	Livermore, Calif	Stove	250
4-30-40	Main Fish Co	Paladini	Seattle, Wash	Oakland, Calif	Fish	1,800
4-30-40	New England Fish	J. Pucci	Seattle, Wash	Oakland, Calif	Fish	758
4-30-40	New England Fish	A. Paladini	Seattle, Wash	Oakland, Calif	Fish	2,910
4-29-40	S. F. Whse Co	C. W Richards	San Francisco	Seattle, Wash	Lub	170
4-29-40	Axton Fisher	Brewster Cigar	San Francisco	Seattle, Wash	Cigarettes	66
4-29-40	F. A. B. Mfg. Co	Standard Equip	Oakland, Calif	Seattle, Wash	Auto Pts	60
4-29-40	Rock Sales Co	Western Auto Spl	San Francisco	Seattle, Wash	Auto Pts	77
4-29-40	Electrogas	Seattle Gas	San Francisco	Seattle, Wash	Furnaces	1,200
4-29-40	Nat'l P. P. S. Co	Same	San Francisco	Seattle, Wash	Towel Cabs	1,535
4-30-40	Canada Dry Ginger Ale	Naval Air Sta	San Francisco	Seattle, Wash	Liquor	672
4-30-40	Haslett Warehouse	McKesson, Robbins	San Francisco	Seattle, Wash	Choc. Syrup	258
4-30-40	Haslett Warehouse	Tacoma Drug Co	San Francisco	Tacoma, Wash	Malted Milk	345
4-30-40	Emerson Bros. Mfg	R. W. Mann	San Francisco	Seattle, Wash	Popcorn	100
4-30-40	Westinghouse Brk	Motor Pts. Mach	San Francisco	Seattle, Wash	Brake Pts	67
4-30-40	Laher Spring	Same	Oakland, Calif	Seattle, Wash	Tires and Tubes	261
4-30-40	Axton Fisher	Roundey Groc	San Francisco	Spokane via Portland	Tobacco	99
2538						
4-30-40	Schroeder Dray	Manlowe	San Francisco	Spokane, via Portland	Drugs	247
4-30-40	National Store	Same	San Francisco	Spokane, via Portland	Dry Gds	907
4-30-40	Carley Hamilton	J. A. Graham	San Francisco	Spokane, via Portland	Paper	508
4-30-40	Weavline	Loose-Wiles	San Francisco	Spokane, via Portland		558
4-30-40	Axton Fisher	Mason Ehrman	San Francisco	Moscow, via Portland	Tobacco	62
4-30-40	Schroeder Dray	McKesson Robbins	San Francisco	Spokane, via Portland	Drugs	869
4-30-40	Schroeder Dray	Manlowe	San Francisco	Spokane, via Portland	Drugs	39
4-30-40	Haslett Whse	Burns Auto Pts	San Francisco	Burns, Oreg., via Portland.	Auto Pts	100
4-30-40	Haslett Whse	Mtg. Ward	San Francisco	Portland		216
4-30-40	Haslett Whse	McKesson Robbins	San Francisco	Portland	Drugs	172
4-30-40	Haslett Whse	Fluhrers	San Francisco	Medford, Oreg	Drugs	107
4-29-40	R. G. LeTourneau	Nez Perce Tractor	Stockton, Calif	Lewiston, Idaho, via Portland.	Tractor Pts	1,440
4-30-40	R. G. LeTourneau	Loggers & Contr	Stockton, Calif	Eugene, Oreg	Tractor Pts	308
4-30-40	Super Mold	Firestone Tire	Stockton, Calif	Seattle, Wash	Tire Repair	1,300
4-30-40	R. G. LeTourneau	Parrish Bros	Stockton, Calif	Siskiyou Summit, via Medford, Oreg.	Tractor Pts	280

2539 *Exhibit 36*

Before the Interstate Commerce Commission

Docket No. MC–1592 and MC–1592 (Sub. No. 2)

IN THE MATTER OF THE APPLICATION, AS AMENDED, OF PACIFIC TRUCK EXPRESS (A CORPORATION), (SUCCESSOR IN INTEREST TO CARL LEBENGOOD, INDIVIDUAL, DOING BUSINESS AS ZERO EXPRESS) OF 1303 SW. 16TH AVENUE, PORTLAND, OREGON, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY OR PERMIT (FORM BMC 1), AUTHORIZING OPERATION AS A COMMON OR CONTRACT CARRIER BY MOTOR VEHICLE IN THE TRANSPORTATION OF COMMODITIES GENERALLY IN INTERSTATE COMMERCE IN THE STATES OF OREGON AND CALIFORNIA OVER THE FOLLOWING ROUTES, ETC.

BRIEF FOR PROTESTANTS

A. J. Clynch, 404 Union Street, Seattle, Washington, Attorney for Protestants, Great Northern Railway Company and North Pacific Coast Freight Bureau.

Frank C. McCulloch, Pacific Building, Portland, Oregon, Attorney for Protestant, North Pacific Coast Freight Bureau.

Donald A. Schafer, 2029 NW. Quimby Street, Portland, Oregon, Attorney for Protestant, Consolidated Freight Lines.

Thomas D. Jennings, Pacific Building, Portland, Oregon, Attorney for Protestant, O. J. Mitchell.

B. A. White, 400 Sansome Street, San Francisco, Calif., Attorney for Protestant, Pacific Southwest Railroad Association.

Edward M. Berol, Marvin Handler, 444 Market Street, San Francisco, Calif., Attorneys for Protestant, Oregon-California Fast Freight.

Dated, San Francisco, California, December 23, 1938.

2540 (Excerpt from pp. 50–54, inc.)

APPLICANT FAILED TO PROVE THAT PUBLIC CONVENIENCE AND NECESSITY DEMAND THE INSTITUTION AND/OR CONTINUANCE OF THE SERVICE

Existing common carriers by motor vehicle should normally have the right to transport all traffic that they can handle adequately, efficiently and economically in the territories they serve, without the added competition of a new operation. The applicant must show that there is a need or demand for the new operation or that existing transportation facilities are inadequate, inefficient or otherwise deficient. Marini, Common Carrier Application, 2 M. C. C. 727, at 728.

The question of public convenience and necessity in substance is whether a new operation or service will serve a useful public purpose, responsive to a public demand or need, whether this purpose can and will be served as well by existing lines and carriers, and whether it can be served by a new operation or service without endangering or impairing the operation of existing carriers contrary to the public interest. Pododsky, Contract Carrier Application, 2 M. C. C. 653, 654 and 655.

The maintenance of sound economic conditions of the motor carrier industry would be jeopardized by allowing new operators to enter the field in competition with existing carriers who are furnishing adequate, efficient, economical service. In order to found a sound economic condition in the industry the Commission has many times held that existing carriers should normally be accorded the right to transport all traffic which they can adequately, efficiently and economically handle in the territory served by them as against any new operators seeking to enter the field in the absence of a showing that there is a need or demand for the new operation or that existing transportation facilities are inadequate. D. & D. Oil Company. Contract Carrier Application, 1 M. C. C. 329, 332; Clark, Common Carrier Application, 1 M. C. C. 445, at 448; Wellspeak, Common Carrier Application, 1 M. C. C. 712, 715; Monnel, Common Carrier Application, 1 M. C. C. 28.

The mere desire of a common carrier to extend its interstate operation of itself can scarcely be deemed evidence of an existing demand for the service in the absence of a showing that existing transportation facilities are inadequate. Lichtenthal, Extension of Operation, 3 M. C. C. 46, 47. The burden of proving the inadequacy of existing carriers is upon the applicant. Norton, Common Carrier Application, 1 M. C. C. 114, 115–116. The record fails to disclose wherein existing services are inadequate for the public needs. The only features which applicant urges as being an improvement over existing facilities are, first, the fact that second morning delivery will be made, and, secondly, that no rehandling is necessary by transfer of the ladings. The answer to the first contention is the fact that the service of the Oregon-California Fast Freight and Consolidated Freight Lines gives
2541 the second morning service, so do other motor carriers.

Most of the witnesses who testified apparently had never investigated, and so stated, to find out when delivery could be made by other services. The witnesses had, prior to the hearing, been written a letter by applicant, in which applicant proposed or suggested question and answers. It is believed that many of these witnesses obtained an erroneous impression as to existing services by reason of these matters. In almost every case where

the witnesses were asked if second morning delivery would satisfy them if it were given by any other truck carrier, the answer was in the affirmative. In other words, the service presently available to these shipper witnesses is the service that will satisfy all their needs and requirements. We do not desire to burden the Commission by repeating here all of the testimony of the witnesses which has been abstracted elsewhere in this brief. We believe that a fair and impartial survey of that testimony will convince the Commission that public convenience and necessity is being served by present carriers. As to the rehandling en route, there was the testimony of protestant J. A. Gritsch of the Oregon-California Fast Freight, that hundreds of shipments are transferred daily with negligible damage claims. Furthermore, the testimony of many of the shipper witnesses was that rehandling from the pick-up truck to the line haul truck or for transfer from Portland to points north of Portland, did not damage the commodity. How, then, can it be said that the transfer at Medford would damage said commodity? No shipper witness testified that the service given by any of the protestants was resulting in damage claims which were prejudicial to the interests of the shipper. As a matter of fact, when they were asked the question, invariably they answered that existing services were satisfactory and they were not complaining of them. Thus, even in a case where a new service facilitated through transportation and the time in transit was lessened, the Commission denied the certificate on the ground that it was not proven that public convenience and necessity was not being served by existing carriers. Benedict Lines, Inc., Extension of Operations, 3 M. C. C. 187.

2542 *Exhibit 37*

CONSOLIDATED FREIGHT LINES, INC.,
Portland, Oregon, October 14, 1938.

Mr. T. S. CARTER, Interstate Motor Lines, Inc.
Mr. CLARENCE GARRETT, Garrett Transfer & Storage Co., Inc.
Mr. JAMES C. COUGHLIN, California Motor Express.
Mr. JOE GRITSCH, Oregon California Fast Freight.
Mr. GROVER EALEY, Inland Motor Freight.

GENTLEMEN: From time to time I have been writing you, gentlemen, urging the formation of a western truck system. There is a constant interchange of freight between our various companies, which could be greatly facilitated by the formation of this system. It would be a great convenience to the shippers to be able to route their freight over the system rather than trying to route it over the line of each carrier.

Several names have been suggested, such as "Transcontinental Trucking System," "United Freight Ways," "American Freight Ways," "Western Freight Ways," "Consolidated Freight Ways." There are plenty of names available and it won't be a very difficult job to adopt a name, a trade-mark and a slogan and register them in the name of the association or company that we will organize.

It would seem to me advisable that the organization be a corporation in which all of the companies would hold an equal amount of stock and that it be set up in such a manner as to permit public financing later.

Under this plan all the companies would be operating under a common system name. There would be no problem of thru-billing. If the shipment was moving from Los Angeles to Seattle, Los Angeles would bill it on the system bills and the shipment would move through on the original billing with a passing record being made at the points where the shipment is interchanged from one company to the other. All of the agencies of each company would report directly to the home offices of each company. This would eliminate settlements in route. On a shipment from Los Angeles to Seattle the Los Angeles office would show on the bill the splits accruing to the various carriers. If the shipment was a
2543 collect shipment, the Seattle office of Consolidated Freight Lines would remit to Consolidated Freight Lines their proportion of the revenue; to Oregon California Fast Freight its proportion of the revenue; and to the California Motor Express its proportion. If the shipment was a prepaid shipment, Los Angeles would remit to each company its respective proportion of the revenue. On such shipments the originating station would furnish the main office of each company with a copy of the bill, which would be used by the main offices of each company for general accounting.

We could arrange it so that each agency would collect C. O. D. money and remit it directly to the shipper with copies of their draft to the main office of the company that originates the shipment so that they would have a clear record of the payment and C. O. D.

We would adopt a uniform method of tracing shipments and reporting Overs and Shorts.

All of this would certainly greatly simplify our present methods of billing interline shipments and afford to the shipper a greatly improved service.

We would work out ways of easily interchanging equipment as between companies. There is no great difficulty involved here. We could undertake the operation of common terminals at the point where we are now duplicating terminal facilities. We are now working on a conveyor system, which, we believe, is going to be successful and will make a large terminal as efficient as a

small one. If we can make the large terminals as efficient as the small ones a common terminal operation will be a big advantage on account of the increased efficiency of a single pickup and delivery service over several individual services.

Then there is the further advantage of being able to collectively purchase and hire the services of experts.

It seems to me that any of those advantages are important enough to move us towards taking immediate action by calling a meeting not later than the latter part of November. What are your thoughts on the matter?

Very truly yours,

CONSOLIDATED FREIGHT LINES., INC.,
(Sgd.) LELAND JAMES.

2544 *Exhibit No. 38*

EXTRACTS FROM TESTIMONY OF WITNESS J. A. GRITSCH BEFORE THE INTERSTATE COMMERCE COMMISSION IN DOCKET NO. MC-17593 SUB. 1, APPLICATION OF PIERCE AUTO FREIGHT LINES, INC.

(Tr. Pages 369 and 370)

Q. As a truck operator is it feasible to operate in interstate service for the distance between San Francisco and Portland on a through direct operation without interchange?

A. In some instances, but in most instances I would say no.

Q. Why do you say no?

A. Well, running—if the operation was conducted from Portland to San Francisco exclusively and no intermediate points, freight could be loaded at those points, both terminals, and would not have to be transferred, but, for instance, if you start out with a partial load of freight at Portland, leaving enough room to take care of the intermediate points on call, naturally, if there is a shipment from Salem for Redding, California, of two ton, the driver would put it on the back of the truck. He probably would have Yreka freight on the back of the truck, which would be the first station he would deliver to in California. He would naturally have to take Redding off and put Yreka on, and put it back on, or else crawl over the freight. That, you can do it if is nails,
or something like that, but in lots of instances, if it is perish-
2545 able freight, you can't very well walk on it.

Q. Have you had any difficulty in effecting interchange with your connecting carriers at Medford on the north and San Francisco or East Bay points on the south?

A. I have not.

2546 *Exhibit No. 39*

EXTRACTS FROM TESTIMONY OF WITNESS JOSEPH A. GRITSCH BEFORE THE INTERSTATE COMMERCE COMMISSION IN DOCKET MC68618, SUB. 1, APPLICATION OF LOS ANGELES-SEATTLE MOTOR EXPRESS, INC.

(Tr. 485 to 492)

By Mr. BEROL:

Q. Have you any comment to make respecting the applicant's proposal to give an unlimited service as respects the larger communities of Los Angeles, Bakersfield, Fresno, Stockton, Sacramento, Oakland, and San Francisco, on the one hand, and Medford, Roseburg, Eugene, Portland, Tacoma, and Seattle, on the other hand, and at the same time restricting its service to or from other intermediate points along route to minimum shipments (485) of not less than 10,000 pounds?

A. Yes. That is a proposal that will be advantageous to the applicant and very dangerous and damaging to our line and to the other carriers with whom we connect. For example, we, as common carriers, serve all intermediate points between San Francisco and Medford. We must and do give an unlimited service to all of the smaller communities en route and handle their shipments, whether they are 100 pounds or 10,000 pounds. Similarly, the other connecting carriers whom I had mentioned and in whose behalf I had testified, serve practically all intermediate points on their lines, whether the community be large or small, indis-
2547 criminately as to small shipments or large shipments. It costs considerably more to handle smaller shipments because one pick-up or one delivery is required whether one shipment be 100 pounds or 10,000 pounds. Furthermore, shipments in excess of 10,000 pounds can usually be picked up or delivered in smaller communities from the line-haul equipment without the necessity of providing pick-up and delivery trucks and all of the incidentals of a pick-up and delivery service. The applicant's proposal will enable it in the smaller communities to concentrate upon the shippers having the larger shipments and thereby take the cream of the traffic in the smaller communities, leaving the carriers who are now in the field and are serving those communities only the skim milk of the traffic that is there available (486).

Chairman BENJAMIN. We will take a short recess.

(Recess.)

Chairman BENJAMIN. Come to order, please.

By Mr. BEROL (continuing):

Q. What in your view, would be the effect upon your line and the other lines in whose behalf you are testifying, if the applicant

agreed to eliminate such smaller communities entirely, or if the Commission did not authorize the applicant to serve such smaller communities, but authorized the applicant to serve only larger communities to and from which it proposes an unlimited service (487).

* * * * *

By Mr. BEROL:

Q. Proceed.

A. This would be highly advantageous to the applicant and damaging to the carriers that are already serving the field, for the following reason: The applicant has selected as the communities which it proposes to serve unrestrictedly, the most important communities in the states of California, Oregon, and Washington.

These are largely the communities to and from which there
2548 is the greatest flow of traffic. The applicant would then be in a position to establish and maintain facilities in those communities which have a large volume of traffic, and would actively compete for traffic in those communities where the greatest traffic is available, leaving to existing carriers in the field the service of the smaller communities which do not have substantial traffic.

Q. What, in your opinion, would be the effect upon your line and upon the other carriers in whose behalf you have testified, if the application were granted (488)?

Mr. IVERS. I will object to that, for the same reason given before.

Chairman BENJAMIN. Proceed. The objection is overruled.

A. I believe the effect would be a harmful one, and it would make it that much more difficult for our line and the other carriers to maintain ourselves at a profitable basis and to render an adequate service to the public. In my case, we, within the past year, were compelled to seek and obtain a $95,000 loan from the Reconstruction Finance Corporation in order to render the full and complete service which we are attempting to give. I do not know the exact details of the financial affairs of the other companies whom I have mentioned. However, in discussions that I have had with them from time to time, I know that they are having their own difficulties, too, in properly financing and maintaining their respective operations. It does not make any difference who the carrier is—any carrier invading the field and soliciting traffic will obtain a portion of traffic. There is only so much traffic in this territory to be had, and as a matter of fact, the more carriers that are authorized to enter the field and serve the territory, the more thinly the traffic will be spread, and with the result that some traffic will be taken from the existing carriers.

2549 Mr. IVERS. I am going to move that that last answer be stricken as incompetent, irrelevant, and immaterial, particularly with reference to what the company was obliged to do the past year, since that has (489) no relation as to what the future effect would be upon his line.

Mr. BEROL. It has this relationship, if the Board please: here we are dealing primarily with what effect this application would have upon existing carriers. Existing carriers are entitled to, and should be in a position to, place into the record what their condition is, and if this application is going to be detrimental, or have a detrimental effect upon their operations, if granted.

We are dealing with a situation where another carrier is trying to invade the field occupied by existing carriers, and the existing carriers certainly should be entitled to present a full picture as to what not only the operations are, but as to what the condition is, and how that will be affected by a new carrier in the field.

Mr. NAUMAN. The objection is overruled.

The WITNESS. As I said in the last answer, I was compelled to borrow $95,000 from the Reconstruction Finance Corporation in order to render the full and complete service which we are attempting to give.

Examiner OLENTINE. I want to ask you something in connection with that, Mr. Gritsch, before you go any farther with that. Was that loan from the Reconstruction Finance Corporation a loan for the purpose of conducting the operation and in connection with the service that you were rendering, or was it in connection (490) with the purchase or acquistion of another line?

The WITNESS. It was for the operation I was conducting.

2550 Examiner OLENTINE. It had no connection with the acquisition or purchase?

THE WITNESS. It did not; no.

By Mr. BEROL (continuing):

Q. Now, are there any other factors which at the present time face you and other carriers, which you desire to point out?

A. Yes.

Q. All right; go ahead.

A. Within the last three or four months, there has been a reduction in the rate level in the territory from Portland south to Redding. Such a reduction makes it necessary that there be corresponding reductions from California points north-bound to Oregon and Washington points.

There will, likewise, have to be reductions from Washington points to the Los Angeles area, so that the entire rate structure might be equalized. There have recently been conferences between a representative of the Pacific Inland Tariff Bureau which

published our rates, and the Railway Lines, so as to adjust the rate structure, and to iron out the difficulties and to make the necessary adjustments as between the truck and rail carriers.

On the lcl traffic, such reductions, based upon preliminary surveys, will be between 10 percent, and 15 percent, and on quantity shipments, the reductions will be even greater. Such (491) reductions will have the effect of making it even more difficult to operate on a profitable basis than it has been in the past, even under the volume of freight that we have enjoyed in the past. Additional competition for the available traffic will, of course, make it even more difficult.

Q. When do you expect such rate adjustments will be made?

2551 A. Based upon the discussions and the work that has already been done, I expect that such reductions will take place within the next sixty days.

Q. Now, with respect to your testimony covering the interchange of traffic, I believe that in order to illustrate the manner in which the traffic is handled, you talked about the north-bound traffic. Does that situation, with respect to interchange of equipment, relate to both north-bound and south-bound traffic?

A. Yes.

Q. Have you ever heard any particular or any substantial complaint from the shippers which you singly, or in conjunction with other carriers, whom you have mentioned, serve, pertaining to such interchanges of traffic as takes place at various points from time to time?

A. No; I have not (492).

Exhibit No. 40

PIERCE AUTO FREIGHT LINES, INC.

Comparative statement of operating revenues and expenses, Jan. 1, 1935, to July 1, 1940

	1935	1936	1937	1938	1939	6 months ended June 30, 1940	Total
Operating revenues:							
Oregon freight revenue	$130,888.88	$170,795.39	$187,098.06	$224,964.70	$252,730.51	$125,012.84	$1,091,490.38
California freight revenue	10,518.53	63,243.83	79,023.09	9,333.58	6,130.65	3,726.05	171,975.73
	141,407.41	234,039.22	266,121.15	234,298.28	258,861.16	128,738.89	1,263,466.11
Miscellaneous terminal revenue:							
Storage of freight and sub-leasing	52.79	40.53	96.04	645.52	751.43	250.76	1,837.07
Storage of freight—Medford			614.95	1,005.80	1,169.92	346.00	3,136.67
Rental of equipment	181.95	312.82	311.44	78.70	28.60	15.00	928.51
	234.74	353.35	1,022.43	1,730.02	1,949.95	611.76	5,902.25
Total operating revenue	141,642.15	234,392.57	267,143.58	236,028.30	260,811.11	129,350.65	1,269,368.36
Operating expenses:							
Equipment maintenance and garage	13,995.35	24,115.70	36,852.23	30,235.10	37,977.87	15,837.12	159,013.37
Transportation	43,152.30	75,128.33	74,356.05	48,903.86	48,898.58	23,644.38	314,083.50
Terminal	31,560.24	40,857.49	51,832.35	45,906.38	51,140.49	26,931.05	248,228.00
Sales, tariff, and advertising	7,473.45	10,175.27	10,678.24	12,997.04	15,803.27	7,782.63	64,909.90
Insurance and safety	7,256.36	11,289.49	15,492.40	15,294.55	14,379.17	7,856.38	71,568.35
Administrative and general	13,804.54	41,944.67	45,402.48	37,078.08	39,952.63	22,036.25	200,218.65
Depreciation	7,462.49	14,041.06	11,482.50	11,296.17	12,101.87	6,979.74	63,363.83
Taxes and licenses	9,937.95	16,292.93	29,144.83	28,741.42	30,830.38	15,347.03	130,294.54
	134,642.68	233,844.94	275,241.08	230,452.60	251,084.26	126,414.58	1,251,680.14
Net operating profit or loss	6,999.47	547.63	(8,097.50)	5,575.70	9,726.85	2,936.07	17,688.22
Other income and expense:							
Nonoperating revenue	2,667.40	496.03	359.82	1,135.10	265.94	18.75	4,943.04
Interest expense	(832.43)	(1,161.49)	(1,715.04)	(1,339.97)	(1,473.95)	(1,173.55)	(7,695.53)
State and Federal income taxes	(1,655.49)			(820.00)	(1,750.00)		(4,225.49)
	179.48	(665.46)	(1,355.22)	(1,023.97)	(2,958.01)	(1,154.80)	(6,977.98)
Net profit or loss	7,178.95	(117.83)	(9,452.72)	4,551.73	6,768.84	1,781.27	10,710.24

Parentheses indicate deficit.

2553

Exhibit No. 41

PIERCE AUTO FREIGHT LINES, INC.

Comparative statement of operating revenues and expenses, tonnage and earnings per ton by month, Jan. 1, 1938, to July 1, 1940

	January	February	March	April	May	June
1938						
Operating revenues	$20,349.96	$18,265.93	$17,369.11	$17,581.34	$18,464.77	$19,191.50
Operating expenses	22,059.12	19,715.03	17,794.40	17,676.83	17,714.75	18,191.67
Operating profit or loss	(1,709.16)	(1,449.10)	(425.29)	(95.49)	750.02	999.83
Tonnage (pounds)	2,506,898	2,712,483	3,087,864	3,014,267	3,244,516	3,356,323
Average rate per ton	$16.24	$13.47	$11.25	$11.29	$11.38	$11.44
1939						
Operating revenues	16,654.68	15,339.08	19,306.46	19,539.07	20,463.00	21,851.72
Operating expenses	17,484.54	16,982.84	18,813.56	18,861.13	19,745.80	19,470.54
Operating profit or loss	(829.86)	(1,643.76)	492.90	677.94	717.20	2,381.18
Tonnage (pounds)	2,865,804	2,554,230	3,367,183	3,253,226	3,564,426	3,641,453
Average rate per ton	$11.61	$12.01	$11.46	$12.01	$11.48	$12.00
1940						
Operating revenues	18,526.67	18,757.69	22,610.13	22,235.94	23,496.14	23,724.08
Operating expenses	18,500.56	19,126.64	21,620.92	20,800.58	22,807.89	23,557.99
Operating profit or loss	26.11	(368.95)	989.21	1,435.36	688.25	166.09
Tonnage (pounds)	3,306,077	3,400,090	4,537,226	4,309,447	4,332,778	4,346,916
Average rate per ton	$11.20	$11.03	$9.52	$10.31	$10.85	$10.91

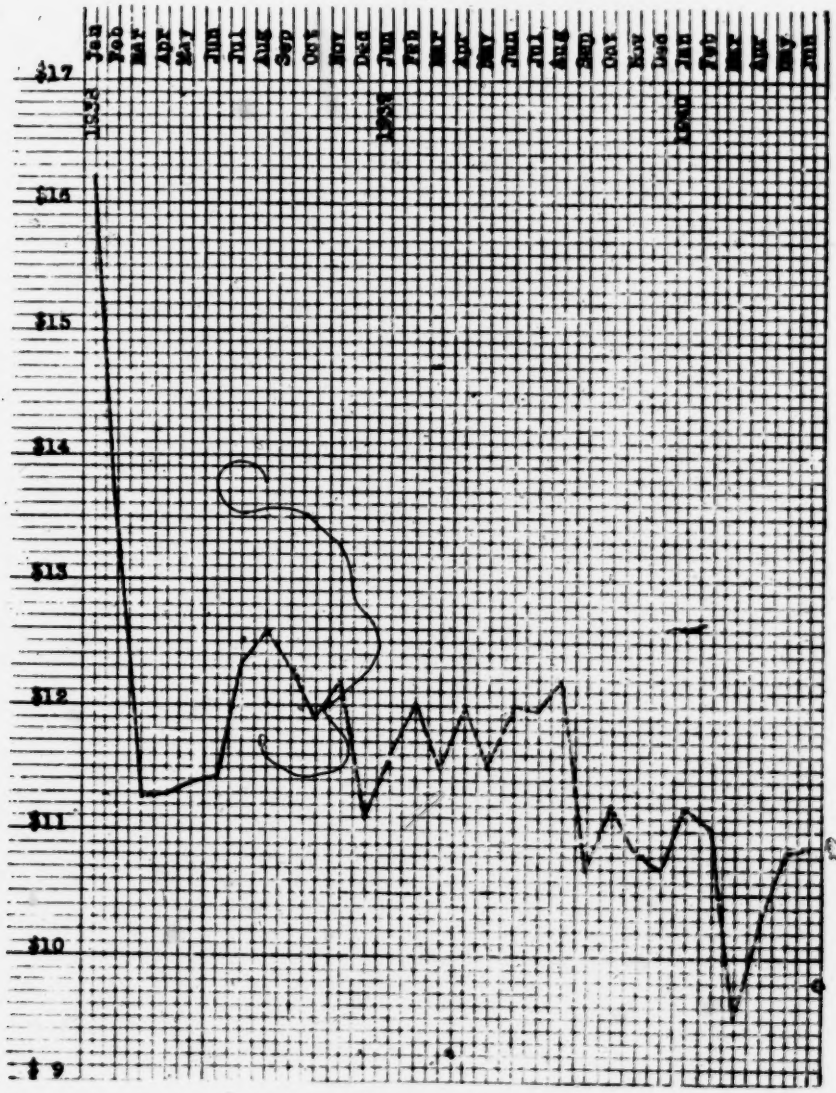
July	August	September	October	November	December	12 months ended Dec. 31
$18,737.38	$24,898.54	$23,415.93	$22,340.95	$18,971.30	$16,441.59	$236,028.30
18,622.22	19,856.89	21,411.20	19,964.55	19,315.95	18,129.99	230,452.60
115.16	5,041.65	2,004.73	2,376.40	(344.65)	(1,688.40)	5,575.70
3,029,853	3,956,760	3,800,003	3,764,595	3,109,452	2,946,256	38,529,270
$12.36	$12.59	$12.32	$11.86	$12.20	$11.17	$12.26
23,249.64	30,209.00	29,322.59	25,120.62	21,941.35	17,813.90	280,811.11
20,469.96	24,975.20	24,502.24	25,113.29	19,887.49	24,777.67	251,084.26
2,779.68	5,233.80	4,820.35	7.33	2,053.86	(6,963.77)	9,726.85
3,886,482	4,938,933	5,498,081	4,476,732	4,013,786	3,303,174	45,363,510
$11.96	$12.23	$10.66	$11.22	$10.93	$10.78	$11.50
						6 months ended June 30
						129,350.65
						126,414.58
						2,936.07
						24,232,534
						$10.68

10% blanket rate increase effective May 15th, 1938—Intrastate and interstate.
Parentheses indicate deficit.

2553–A *Exhibit No. 42*

PIERCE AUTO FREIGHT LINES, INC.

Graph showing trend of average rates per ton during the period from January 1, 1938 to July 1, 1940



2554 *Exhibit No. 43*

PIERCE AUTO FREIGHT LINES, INC.

Tonnage transported on a weekly thru schedule of freight July 1, 1939, to June 24, 1940

	San Francisco area	Los Angeles area	Total
North-bound:			
Southern Oregon area	69,128	18,324	87,452
Roseburg area	14,787	12,601	27,388
Eugene area	111,080	11,174	122,254
Portland area	159,927	96,442	256,369
Seattle area	113,234	97,584	210,818
Pendleton area	4,144	3,977	8,121
Walla Walla area	8,403	3,837	12,240
Spokane area	76,951	23,020	99,971
	557,664	266,959	824,623
South-bound:			
Southern Oregon area	1,737	1,237	2,974
Roseburg area	2,558	1,580	4,138
Eugene area	9,613		9,613
Portland area	96,383	94,092	190,475
Seattle area	35,281	9,103	44,384
Pendleton area	1,755	46	1,801
Spokane area	585	384	969
	147,912	106,442	254,354

2555 *Exhibit No. 44*

PIERCE AUTO FREIGHT LINES, INC.

Summary of tonnage transported on a daily schedule June 24 to July 25, 1940

	San Francisco area	Los Angeles area	Total
North-bound:			
Southern Oregon area	46,634	28,153	74,787
Roseburg area	5,870	5,946	11,816
Eugene area	20,267	6,858	27,125
Portland area	44,877	71,239	116,116
Seattle area	49,521	50,035	99,556
Pendleton area	155	1,080	1,235
Walla Walla area	2,448	1,205	3,653
Spokane area	27,241	8,489	35,730
	197,013	173,005	370,018
South-bound:			
Southern Oregon area	6,540	1,912	8,452
Roseburg area	635		635
Eugene area	3,359	342	3,701
Portland area	44,177	28,969	73,146
Seattle area	17,196	6,601	23,797
Pendleton area			
Walla Walla area	80		80
Spokane area	5,030	7,902	12,932
	77,017	45,726	122,743

2556

Exhibit No. 45

PIERCE AUTO FREIGHT LINES, INC.

Tonnage ratio for the period from January 1, 1939, to July 1, 1940

	Portland south-bound tonnage	Portland north-bound tonnage	Medford Grants Pass south-bound from Portland and way points tonnage	Medford Grants Pass north-bound to Portland and way points tonnage
1939				
January	1,969,481	523,969	1,213,929	603,000
February	1,702,731	589,472	1,138,682	451,793
March	2,167,285	794,134	1,315,866	862,194
April	2,211,929	567,308	1,355,101	645,916
May	2,245,169	729,032	1,306,900	869,063
June	2,246,964	944,404	1,395,786	809,854
July	2,327,983	1,026,526	1,502,867	880,239
August	2,923,489	1,039,586	1,925,951	1,212,463
September	3,313,708	1,426,821	1,960,500	1,719,512
October	2,827,360	1,117,112	1,631,349	1,309,561
November	2,380,621	788,589	1,476,916	1,012,126
December	1,836,673	770,594	1,145,630	861,076
1940				
January	2,108,410	638,446	1,259,938	850,884
February	2,203,420	678,873	1,273,777	856,816
March	2,736,702	1,082,126	1,483,482	1,286,065
April	2,614,041	992,355	1,449,241	1,075,429
May	2,926,340	813,064	1,567,868	959,673
June	2,669,240	963,532	1,392,439	1,923,010
	43,411,546	15,485,943	25,796,222	17,288,655
	35%		67%	

Exhibit No. 46

PIERCE AUTO FREIGHT LINES, INC.

Summary of trip logs between Portland and San Francisco, July 1st to 27th, 1940

SOUTH-BOUND

Date and hour of departure	Truck No.	Portland/Roseburg								Roseburg/Medford							
		Driver	Driving time		Incidental stops		Loading or unloading		Elapsed time		Driver	Driving time		Incidental stops		Loading or unloading		Elapsed time	
			Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.		Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.
6/29 5:00 p. m	2	Morgan	5	30			1		6	30	C. Hunnicutt	5					20	5	20
7/1 6:45 p. m	50	Mintonye	6	15		55	1	20	8	30	Castner	4	10					4	10
7/2 7:30 p. m	40	Morgan	5	30		30		30	6	30	Castner	4	40			1	40	6	20
7/3 7:05 p. m	70	Helstrom	5	40	1				6	40	Morgan	4	30					4	30
7/5 7:30 p. m	2	Moores	6			30			6	30	O. L. Hunnicutt	5						5	
7/5 8:00 p. m	50	Helstrom	6	10		30			6	40	C. Hunnicutt	4	20			3	40	8	
7/8 6:15 p. m	40	Mintonye	6	30		45			7	15	Castner	4	20					4	20
7/9 7:00 p. m	90	Morgan	6			30	1		7	30	Castner	4	20			1		5	20
7/10 7:15 p. m	50	Moores	5	45		20			6	05	O. L. Hunnicutt	5					30	5	30
7/11 7:00 p. m	70	Morgan	6			30		30	7		Castner	4	30				40	5	10
7/12 7:30 p. m	2	Moores	5	45		20			6	05	O. L. Hunnicutt	5					25	5	25
7/13 4:00 p. m	10	Morgan	6	10				20	6	30	C. Hunnicutt	4				1		5	
7/15 6:45 p. m	40	Moores	6				2	30	8	30	O. L. Hunnicutt	4	30					4	30
7/16 6:45 p. m	70	Bristow	5	30		3	1	30	7	30	Castner	4	15					4	15
7/17 6:30 p. m	10	Moores	6						6		O. L. Hunnicutt	6	15		15		15	6	45
7/18 7:00 p. m	2	Morgan	6	30			1		7	30	C. Hunnicutt	4	25			1	30	6	05
7/19 6:45 p. m	40	Mintonye	5	45		45	1		7	30	Castner	4	20				45	5	05
7/20 5:00 p. m	50	Loar	6	10		20			6	30	Holloway	4	20			1	10	5	30
7/22 6:45 p. m	2	Helstrom	6	30		20		25	7	15	C. Hunnicutt	4	20			1		5	20
7/23 7:00 p. m	70	Morgan	6	30		30		30	7	30	Castner	4	30					4	30
7/24 6:45 p. m	50	Helstrom	6	05		20		15	6	40	C. Hunnicutt	4	10					4	10
7/25 7:30 p. m	45	Moores	5	45					5	45	Paris	5						5	
7/26 7:00 p. m	2	Smith	6			20			6	20	O. L. Hunnicutt	5	20		35			5	55

Summary of trip logs between Portland and San Francisco, July 1st to 27th, 1940—Continued

SOUTH-BOUND—continued

Date and hour of departure	Truck No.	Portland-Roseburg								Roseburg-Medford							
		Driver	Driving time		Incidental stops		Loading or unloading		Elapsed time		Driver	Driving time		Incidental stops		Loading or unloading		Elapsed time	
			Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.		Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.
6/30	2	Steele	6	45					6	45	Manning	8	20	1			20	9	40
7/2	50	Curry	6	45				15	7		Peart	6	30	1				8	30
7/3	40	Steele	6	40				30	7	10	Manning				30		30	8	
7/4	70	Curry	6	30					6	30	Peart			1					
7/6	2	Steele	7	20					7	20	Peart	6			30			6	30
7/7	50	Curry	6	30				30	7		Manning	6	30		40			7	10
7/9	40	Steele	6	30				20	6	50	Peart	8			30		30	9	
7/10	90	Curry	6	40					6	40	Manning		30		20			8	50
7/11	50	Steele	6	40				20	7		Peart				30				30
7/12	70	Curry	6	30					6	30	Manning		30		40			8	10
7/13	2	Steele	6	30				10	6	40	Peart	8			30			8	30
7/14	10	Curry	6	45				30	7	15	Manning		30	1	10			8	40
7/16	40	Steele	6	40				20	7		Peart		30		30			8	
7/17	70	Curry	7								Manning	8	40	1	10			9	50
7/18	10	Steele	6	50				20	7	10	Peart		30		30			8	
7/19	2	Curry	7								Manning	6	40		40			7	20
7/20	40	Steele	6	30				30	7		Peart	7	30		30		30	8	30
7/21	50	Curry	6	10				20	6	30	Manning	8	10		30	1	20	10	
7/23	2	Steele	6	20		10		50	7	20	Peart			1		1		9	
7/24	70	Curry	5	45				30	6	15	Manning	8	30		50		30	9	50
7/25	50	Steele	6	30		20		20	7	10	Peart			1		4		12	
7/26	45	Curry	6	15				45	7		Manning	8		1			20	9	20
7/27	2	Steele	7	30			2		9	30	Peart	8		1		1		10	

Date and hour of arrival	Total elapsed time Portland to San Francisco		Total driving time		Total loading and unloading time		Total incidental stops		Total operating time		Date and hour of arrival	Total elapsed time Portland to San Francisco		Total driving time		Total loading and unloading time		Total incidental stops		Total operating time	
	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.		Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.
7/1 7:50 a. m	38	50	25	35	1	40	1		28	15	7/17 3:30 a. m	32	45	24	40	2	50		30	28	
7/3 3:00 a. m	32	15	23	40	1	35	1	55	27	10	7/18 7:10 a. m	36	25	25	25	1	30	1	40	28	35
7/4 4:00 a. m	32	30	23	50	3	10	1		28		7/19 3:30 a. m	33		26	35		35		45	27	55
7/5 4:00 a. m	32	56	23	40			2		25	40	7/20 4:40 a. m	33	40	24	35	2	30		40	28	45
7/7 4:00 a. m	32	30	24	20			1		25	30	7/21 4:00 a. m	33	15	24	05	2	45	1	15	28	05
7/8 4:20 a. m	56	20	23	30	4	10	1	10	28	50	7/22 6:50 a. m	37	50	24	50	2	50		50	28	30
7/10 6:00 a. m	35	45	25	20		50	1	15	27	25	7/24 5:00 a. m	34	15	24	10	3	15	1	30	28	55
7/11 4:30 a. m	33	30	24	36	2			50	27	20	7/25 7:00 a. m	36		25	15	1	30	1	20	28	
7/12 4:00 a. m	32	45	24	25		50		50	26	05	7/26 7:30 a. m	36	45	23	45	4	35	1	40	30	
7/13 4:40 a. m	33	40	24	30	1	10	1	10	26	50	7/27 6:15 a. m	34	45	30		1	05	1		32	05
7/14 4:00 a. m	32	30	25	15		35		50	26	40	7/28 7:00 a. m	36		26	50	3		1	55	31	46
7/15 4:40 a. m	36	40	24	25	1	50	1	10	27	25											

Exhibit No. 47

PIERCE AUTO FREIGHT LINES, INC.

Summary of trip logs between Portland and San Francisco, July 1st to 27th, 1940

NORTHBOUND

Date and hour of departure	Truck No.	San Francisco/Redding								Redding/Medford							
		Driver	Driving time		Incidental stops		Loading or unloading		Elapsed time		Driver	Driving time		Incidental stops		Loading or unloading		Elapsed time	
			Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.		Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.
7/3 8:00 p. m.	50	Peart	7		1				8		Steele	6	40					6	40
7/2 8:00 p. m.	2	Manning	7			30			7	30	Curry	8						8	
7/5 7:00 p. m.	70	Peart	8			30		30	9		Curry	7						7	
7/6 6:00 p. m.	40	Manning	8			30		30	9		Steele	6	40				30	7	10
7/8 7:30 p. m.	50	Peart	7	30		30		30	8	30	Curry	7						7	
7/9 7:30 p. m.	2	Manning	8	20		40			9		Steele	7	30		20			7	50
7/10 8:30 p. m.	40	Peart	6		1				7		Curry	7						7	
7/11 7:40 p. m.	90	Manning	6	40		40			7	20	Steele	7	30		10			7	40
7/12 8:00 p. m.	50	Peart	7		1				8		Curry	6	30					6	30
7/13 6:20 p. m.	70	Manning	7	20		40			8		Steele	6	20		10			6	30
7/15 7:30 p. m.	10	Peart	7	30	1				8	30	Curry	6	30		30			7	
7/16 7:30 p. m.	2	Manning	8	30		30		30	9	30	Steele	7	50		10			8	
7/17 7:00 p. m.	40	Peart	7	30		30		30	8	30	Curry	7						7	
7/18 7:50 p. m.	70	Manning	7	20		40		50	8	50	Steele	6	20		10			6	30
7/19 7:30 p. m.	10	Peart	9	10		30			9	40	Curry	6	45		15			7	
7/20 5:00 p. m.	2	Manning	8	50		40			9	30	Steele	6	50		20			7	10
7/22 8:00 p. m.	50	Peart	7			30		30	8		Curry	6	30					6	30
7/23 7:40 p. m.	40	Manning	7	50		30			8	20	Steele	6	20				40	7	
7/24 7:30 p. m.	2	Peart	8			30	1		9	30	Curry	7	30		30			8	
7/25 7:50 p. m.	70	Manning	8	20		30	1	30	10	20	Steele	6	50		20			7	10
7/26 7:00 p. m.	50	Peart	7	30	1			30	9		Curry	6	30		30			7	

		Medford/Roseberg										Roseburg/Portland									
7/4	50	Castner	4					15	4			Hertel	6	10	1	30	2		9	40
7/3	2	Castner	4	15					4	30		Loar	6	30	1				7	30
7/6	70	Castner	4	20					4	20		Bristow	6	15				15	6	30
7/7	40	Holloway	4	50				30	5	20		Mintonye	6	5		45	1	05	7	55
7/9	50	O. L. Hunnicutt	4	15				30	4	45		Moores	6	20	1	15		15	7	50
7/10	2	Castner	4	40					4	40		Morgan	6	30	1		1		8	30
7/11	40	Castner	4	30				30	5			Mintonye	6	15		35	1	45	8	35
7/12	90	Castner	4	10				20	4	30		Morgan	6	30				30	7	
7/13	50	O. L. Hunnicutt	4	30				15	4	45		Moores	6	45		15			7	15
7/14	70	C. Hunnicutt	3	50					3	50		Mintonye	6	15	1	30	1	30	7	
7/16	10	O. L. Hunnicutt	4	30					4	30		Moores	6	30		30			7	30
7/17	2	Castner	4	30				20	4	50		Morgan	6			30	1		7	
7/18	40	O. L. Hunnicutt	4			30		30	5			Moores	6	35		45		40	8	
7/19	70	Castner	4	30				30	5			Morgan	5	35		30	1	30	7	35
7/20	10	O. L. Hunnicutt	4	30		30		45	5	45		Helstrom	6	45		45	1		8	30
7/21	2	Holloway	5	50				20	6	10		Mintonye	6	15		45		30	7	30
7/23	50	C. Hunnicutt	5	40				30	4	10		Helstrom	5	45		30		15	6	30
7/24	40	Castner	4	05			1	40	5	45		Morgan	6	10		30	2	20	8	
7/25	2	O. L. Hunnicutt	5					30	5	30		Moores	6	15		45	1		8	
7/26	70	C. Hunnicutt	4	30					4	30		Bristow	5	45		15			6	
7/27	50	C. Hunnicutt	3	30		15			3	45		Moores	5	25		45		20	6	30

Date and hour of arrival	Total elapsed time San Francisco to Portland		Total driving time		Total loading and unloading time		Total incidental stops		Total operating time		Date and hour of arrival	Total elapsed time San Francisco to Portland		Total driving time		Total loading and unloading time		Total incidental stops		Total operating time	
	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.		Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.
7/5 5:30 a. m.	33	30	23	50	2		2	30	28	20	7/18 5:30 a. m.	34		26	50		50	1	10	28	50
7/4 5:00 a. m.	33		25	45		15	1	30	27	30	7/19 4:30 a. m.	33	30	25	05	1	40	1	45	27	30
7/7 2:30 a. m.	31	30	25	35		45		30	26	50	7/20 4:00 a. m.	32	10	23	45	1	50	1	20	26	55
7/8 6:30 a. m.	36	30	25	35	2	35	1	15	29	25	7/21 5:30 a. m.	34		27	10	1	45	2		30	55
7/10 5:00 a. m.	33	30	25	05	1	15	1	45	28	05	7/22 7:30 a. m.	38	30	27	45		50	1	45	30	20
7/11 6:00 a. m.	34	30	27		1		2		30		7/24 5:00 a. m.	33		22	55	1	15	1		25	10
7/12 7:00 a. m.	34	30	23	45	2	15		35	26	35	7/25 7:00 a. m.	35	20	24	25	4	40	1		30	05
7/13 5:00 a. m.	33	20	25			50		50	26	40	7/26 7:50 a. m.	39		26	45	1	30	1	45	30	
7/14 3:00 a. m.	31		24	45		15	1	15	26	15	7/27 2:00 a. m.	30	10	25	25		30	1	05	27	
7/15 5:30 a. m.	35	10	23	45	1	30	2	20	27	35	7/28 4:00 a. m.	32		22	55		50	1	30	25	15
7/17 4:00 a. m.	32	30	25				2		27												

2559

Exhibit No. 48

Statement of departure and arrival times of Oregon-Nevada-California Fast Freight, Inc.

NORTH-BOUND

Departure from San Francisco —			Arrival at Medford —		
Date	Hour	Driver	1940 Date	Hour	Driver
4-1	1:00 a. m.	Kerr	4-2	2:30 p. m.	Patterson.
4-1	8:00 p. m.	Aberg	4-2	2:30 p. m.	Marrs.
4-1	8:00 p. m.	Wilson	4-2	4:30 p. m.	Spencer.
4-1	8:20 p. m.	Van Dill	4-2	5:00 p. m.	Knapp.
4-1	8:30 p. m.	Hicks	4-2	8:30 p. m.	Gritch.
4-1	9:20 p. m.	Shaw			
4-1	9:50 p. m.	McFadden			
4-2	6:20 p. m.	Kerr	4-3	11:10 a. m.	Marrs.
4-2	7:30 p. m.	Ross	4-3	11:30 a. m.	Patterson.
4-2	7:40 p. m.	Agnew	4-3	12:00 n.	Knapp.
4-2	7:40 p. m.	Dossett	4-3	1:30 p. m.	Spencer.
4-2	8:10 p. m.	Kuppinger	4-3	6:30 p. m.	Gritch.
4-2	9:00 p. m.	La Motte			
4-3	6:40 p. m.	McFadden	4-4	12:20 p. m.	Marrs.
4-3	8:00 p. m.	Aberg	4-4	2:00 p. m.	Spencer.
4-3	8:10 p. m.	Van Dill	4-4	2:30 p. m.	Patterson.
4-3	8:30 p. m.	Wilson	4-4	3:00 p. m.	Knapp.
4-3	8:30 p. m.	Manning	4-4	8:00 p. m.	Gritch.
4-4	7:00 p. m.	Kerr	4-5	1:30 p. m.	Knapp.
4-4	7:00 p. m.	La Motte	4-5	1:30 p. m.	Spencer.
4-4	7:30 p. m.	Agnew	4-5	1:30 p. m.	Marrs.
4-4	7:30 p. m.	Ross	4-5	2:00 p. m.	Patterson.
4-4	8:20 p. m.	Shaw	4-5	6:30 p. m.	Gritch.
2560					
4-5	1:00 p. m.	Aberg	4-6	7:30 a. m.	Spencer
4-5	7:00 p. m.	McFadden	4-6	12:10 p. m.	Marrs.
4-5	8:30 p. m.	Van Dill	4-6	1:40 p. m.	Patterson.
4-5	9:00 p. m.	Wilson	4-6	3:00 p. m.	Knapp.
4-5	9:30 p. m.	Dossett	4-6	6:30 p. m.	Gritch.
4-5	9:40 p. m.	Kuppinger			
4-5	10:30 p. m.	Hicks			
4-6	4:30 p. m.	Ross	4-7	8:00 a. m.	Spencer.
4-6	4:40 p. m.	Kerr	4-7	1:00 p. m.	Knapp.
4-6	5:00 p. m.	Agnew	4-7	4:30 p. m.	Gritch.
5-1	11:20 a. m.	Agnew	5-2	6:30 a. m.	Spencer.
5-1	5:00 p. m.	Aberg	5-2	7:50 a. m.	Marrs.
5-1	6:30 p. m.	Ross	5-2	10:00 a. m.	Knapp.
5-1	8:00 p. m.	Shaw	5-2	11:00 a. m.	Gritch.
			5-2	1:10 p. m.	Patterson.
5-2	2:40 a. m.	Kerr	5-3	11:00 a. m.	Marrs.
5-2	2:00 p. m.	Van Dill	5-3	1:30 p. m.	Patterson.
5-2	8:00 p. m.	Kerr	5-3	2:30 p .m.	Spencer.
5-2	9:00 p. m.	McFadden	5-3	4:30 p. m.	Knapp.
5-2	9:10 p. m.	Kuppinger	5-3	7:00 p. m.	Gritch.
5-2	10:00 p. m.	Hicks			
5-3	6:00 p. m.	Agnew	5-4	10:30 a. m.	Spencer.
5-3	7:20 p. m.	Shaw	5-4	11:00 a. m.	Marrs.
5-3	9:40 p. m.	Dossett	5-4	1:30 p. m.	Knapp.
5-3	12:00 m.	Manning	5-4	2:20 p. m.	Patterson.
			5-4	6:30 p. m.	Gritch.
5-4	4:00 p. m.	Van Dill	5-5	11:00 a. m.	Patterson.
5-4	5:10 p. m.	McFadden	5-5	12:00 m.	Knapp.
5-4	5:30 p. m.	Kuppinger	5-5	5:30 p. m.	Gritch.
5-4	12:00 m.	Hicks			
2561					
5-6	7:10 p. m.	Agnew	5-7	8:20 a. m.	Patterson.
5-6	7:20 p. m.	Shaw	5-7	12:20 p. m.	Marrs.
5-6	8:30 p. m.	Kerr	5-7	1:00 p. m.	Spencer.
5-6	8:30 p. m.	La Motte	5-7	1:30 p. m.	Knapp.
			5-7	7:30 p. m.	Gritch.
5-7	4:40 p. m.	Van Dill	5-8	1:30 a. m.	Patterson.
5-7	6:00 p. m.	McFadden	5-8	11:30 a. m.	Marrs.
5-7	8:00 p. m.	Dossett	5-8	1:00 p. m.	Knapp.
5-7	8:30 p. m.	Manning	5-8	4:30 p. m.	Spencer.
5-7	8:30 p. m.	Kuppinger			
5-7	12:00 m.	Hicks			

2562

Exhibit No. 49

Statement of departure and arrival times of Oregon-Nevada-California Fast Freight, Inc.

SOUTH-BOUND

Departure from Medford—			Arrival at San Francisco—		
Date	Hour	Driver	(1940) Date	Hour	Driver
4-1	9:00 a. m.	Gritch	4-2	6:00 a. m.	Ross.
4-1	12:40 p. m.	Marrs	4-2	9:00 a. m.	La Motte.
4-1	4:40 p. m.	Patterson	4-2	9:40 a. m.	Agnew.
4-1	5:00 p. m.	Spencer			
4-2	1:00 p. m.	Gritch	4-3	8:30 a. m.	Aberg.
4-2	4:00 p. m.	Marrs	4-3	8:30 a. m.	Wilson.
4-2	5:30 p. m.	Patterson	4-3	9:20 a. m.	Hicks.
4-2	6:00 p. m.	Spencer	4-3	10:10 a. m.	McFadden.
4-2	8:00 p. m.	Knapp	4-3	11:20 a. m.	Van Dill.
4-3	10:30 a. m.	Gritch	4-4	5:40 a. m.	Agnew.
4-3	2:00 p. m.	Knapp	4-4	6:30 a. m.	Kerr.
4-3	3:10 p. m.	Patterson	4-4	7:00 a. m.	Ross.
4-3	3:50 p. m.	Marrs	4-4	7:10 a. m.	Kuppinger.
4-3	6:10 p. m.	Spencer	4-4	8:00 a. m.	Shaw.
			4-4	11:00 a. m.	Dossett.
4-4	10:00 a. m.	Gritch	4-5	5:00 a. m.	Aberg.
4-4	2:20 p. m.	Marrs	4-5	6:00 a. m.	Wilson.
4-4	4:20 p. m.	Patterson	4-5	8:30 a. m.	Van Dill.
4-4	5:30 p. m.	Spencer	4-5	9:15 a. m.	Manning.
4-4	6:00 p. m.	Knapp	4-5	11:20 a. m.	McFadden.
			4-5	8:00 p. m.	La Motte.
2563					
4-5	9:00 a. m.	Gritch	4-6	6:30 a. m.	Ross.
4-5	3:00 p. m.	Marrs	4-6	6:30 a. m.	Kerr.
4-5	4:00 p. m.	Knapp	4-6	7:20 a. m.	Agnew.
4-5	5:00 p. m.	Spencer	4-6	11:00 a. m.	Shaw.
4-5	5:20 p. m.	Patterson			
4-6	10:00 a. m.	Gritch	4-7	5:00 a. m.	Wilson.
4-6	11:00 a. m.	Spencer	4-7	10:00 a. m.	Hicks.
4-6	4:00 p. m.	Knapp	4-7	11:30 a. m.	Kuppinger.
			4-7	12:00 n.	Dossett.
			4-7	10:00 p. m.	Ross.
4-7	10:00 a. m.	Gritch	4-8	5:30 a. m.	Ross.
4-7	2:00 p. m.	Knapp	4-8	7:00 a. m.	Aberg.
			4-8	7:00 a. m.	Kerr.
5-1	12:00 n.	Gritch	5-2	5:20 a. m.	Hicks.
5-1	5:20 p. m.	Marrs	5-2	6:00 a. m.	La Motte.
5-1	6:00 p. m.	Spencer	5-2	9:10 a. m.	McFadden.
5-1	12:00 m.	Gritch	5-2	9:20 a. m.	Van Dill.
			5-2	10:00 a. m.	Kuppinger.
			5-2	3:10 p. m.	Kerr.
			5-2	9:50 p. m.	Shaw.
5-2	9:30 a. m.	Spencer	5-3	3:40 a. m.	Agnew.
5-2	2:30 p. m.	Knapp	5-3	6:00 a. m.	Aberg.
5-2	4:30 p. m.	Marrs	5-3	9:00 a. m.	Ross.
5-2	5:50 p. m.	Patterson			
5-3	11:00 a. m.	Gritch	5-4	1:30 a. m.	Manning.
5-3	1:30 p. m.	Marrs	5-4	7:10 a. m.	Kerr.
5-3	5:30 p. m.	Knapp	5-4	8:20 a. m.	Hicks.
5-3	6:00 p. m.	Spencer	5-4	8:20 a. m.	Van Dill.
5-3	6:00 p. m.	Patterson	5-4	8:20 a. m.	McFadden.
			5-4	8:30 a. m.	Kuppinger.
2564					
5-4	9:30 a. m.	Gritch	5-5	9:00 a. m.	Shaw.
5-4	2:30 p. m.	Knapp			
5-4	6:10 p. m.	Patterson			
5-5	8:30 a. m.	Gritch	5-6	8:00 a. m.	Agnew.
5-5	1:30 p. m.	Knapp	5-6	9:30 a. m.	Kuppinger.
5-5	3:40 p. m.	Patterson			
5-6	4:10 p. m.	Marrs	5-7	6:40 a. m.	Hicks.
5-6	5:00 p. m.	Spencer	5-7	9:30 a. m.	Van Dill.
			5-7	9:50 a. m.	McFadden.
5-7	11:00 a. m.	Gritch	5-8	5:30 a. m.	Agnew.
5-7	2:00 p. m.	Marrs	5-8	5:30 a. m.	Shaw.

Statement of departure and arrival times of Oregon-Nevada-California Fast Freight, Inc.—Continued

SOUTH-BOUND

	Departure from Medford—			Arrival at San Francisco—		
Date	Hour	Driver		(1940) Date	Hour	Driver
5-7	3:30 p. m.	Knapp		5-8	6:00 a. m.	La Motte.
5-7	5:30 p. m.	Spencer		5-8	7:30 a. m.	Foster.
5-7	5:40 p. m.	Patterson		5-8	8:30 a. m.	Dossett.
				5-8	9:10 a. m.	Kerr.
5-8	2:30 p. m.	Knapp		5-9	8:00 a. m.	Van Dill.
5-8	4:50 p. m.	Marrs				
5-8	5:00 p. m.	Spencer				
5-8	5:40 p. m.	Patterson				

2565 *Exhibit 51*

SACRAMENTO CHAMBER OF COMMERCE,
Sacramento, California, October 25, 1939.

PIERCE AUTO FREIGHT LINES, INC.,
1321 SE. Water Avenue, Portland, Oregon.

GENTLEMEN: In reply to your letter without date with reference to an Interstate Commerce Commission Hearing which you indicate is coming up in the near future with respect to your operative rights into California.

Sacramento is an important wholesale distribution center and also manufactures a wide variety of food products. This, of course, consists principally of miscellaneous lines of all deciduous fruits and vegetables, pork and beans, and a number of other canned goods including olives. There are several rice mills here, bean cleaners, California Almond Growers Exchange is also located at Sacramento. There is considerable interchange of cargo between Portland and other Oregon points on the one hand and Sacramento on the other.

"Speaking frankly, however, our transportation requirements are taken care of very satisfactorily with your present arrangement in conjunction with the Oregon-California Fast Freight. In other words, shipments made from Sacramento today is delivered in Medford early tomorrow morning and moves on through on your truck making delivery in Portland the second day. In the reverse direction on south-bound movement a similar arrangement is made. Under these circumstances we are just wondering what way your proposed service would be an improvement over that which we now enjoy by using your line between Portland and Medford and the Oregon-California Fast Freight between Medford and Sacramento."

I will appreciate it very much if you will send us a copy of your Application together with full details as to your proposed service, rates, schedules, etc.

Very truly yours,

(Signed) W. G. STONE,

W. G. Stone: LS. *Manager, Transportation Department.*

Exhibit No. 54

Interstate operations of Pacific Motor Trucking Company in California and Oregon as of September 26, 1940, present operations

Route description	Docket No.	Major points	Status
(a)	(b)	(c)	(d)
Brawley-Westmorland, Calif.	MC-78786	Brawley-Westmorland	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Oct. 24, 1939.
Lone Pine-Laws, Calif.	MC-78786	Lone Pine, Big Pine, Independence, Bishop	Do.
Los Angeles-Los Angeles Harbor-Long Beach, Calif.	MC-78786	Los Angeles, Vernon, Maywood, Bell, Huntington Park, Compton, Wilmington, Terminal Island, San Pedro, Long Beach.	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Oct. 24, 1939, except Long Beach.
Surf-Lompoc-White Hills, Calif.	MC-78786	Surf, Baroda, Post, Lompoc, White Hills	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Oct. 24, 1939.
Dunsmuir-Yreka-Montague, Calif.	MC-78786	Dunsmuir, Mt. Shasta, Weed, Edgewood, Gazelle, Grenada, Yreka, Montague.	Do.
Davis-Rumsey-Fairfield, Calif.	MC-78786	Davis, Dixon, Elmira, Vacaville, Esparto, Capay, Rumsey, Fairfield.	Do.
Marysville-Oroville, Calif.	MC-78786	Marysville, Honcut, Palermo, Oroville	Do.
Williams-Colusa, Calif.	MC-78786	Williams, Colusa	Do.
Sacramento-Placerville, Calif.	MC-78786	Sacramento, Mather, Fair Oaks, Citrus, Natoma, Folsom, El Dorado, Placerville.	Do.
Stockton-Martel, Calif.	MC-78786	Stockton, Lockeford, Ione, Martel	Do.
Martinez-San Ramon, Calif.	MC-78786	Martinez, Concord, Walnut Creek, Danville, San Ramon.	Do.
San Rafael, Point Reyes-Inverness, Calif.	MC-78786	San Rafael, Lagunitas, Tocaloma, Point Reyes, Inverness.	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Oct. 24, 1939, limited to milk, cream, farm and dairy supplies.
Sausalito-Healdsburg, Calif.	MC-78786	Sausalito, Petaluma, Cotati, Santa Rosa, Sebastopol, Sonoma, Agua Caliente, Schellville, Healdsburg, San Anselmo, San Rafael, Hamilton Field, Valley Ford, Tomales.	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Oct. 24, 1939.
Oakland-Newark, Calif.	MC-78786	Oakland, Hayward, Livermore, San Leandro, San Lorenzo, Newark, Alavardo, Niles, Centerville, Irvington, Milpitas, San Jose, Everyville, Berkeley, Piedmont, Alameda, Santa Clara.	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Oct 24, 1939, except Berkeley and Emeryville.
Niles-Oakland-San Jose, Calif.	MC-78786		
Niles-Oakland-Livermore, Calif.	MC-78786		
Santa Clara-Irvington, Calif.	MC-78786		
San Jose-Santa Cruz, Calif.	MC-78786		
San Jose-Mayfield, Calif.	MC-78786	San Jose, Los Gatos, Cupertino, Los Altos, Mayfield, Saratoga, Campbell, Holy City, Mt. Hermon, Santa Cruz, Soquel, Capitola, Aptos, Felton, Ben Lomond, Brookdale, Boulder Creek, Watsonville, Watsonville Jct., Castroville, Marina, Gigling, Del Monte, Monterey, Pacific Grove, Salinas.	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Oct. 24, 1939.
Watsonville Jct.-Salinas-Pacific Grove, Calif.	MC-78786		
Watsonville Jct.-Boulder Creek, Calif.	MC-78786		

San Luis Obispo-Metz, Calif	MC-78786	San Luis Obispo, Paso Robles, Atascadero, San Miguel, San Lucas, King City, Metz.	Do.
Tracy-Merced, Calif	MC-78786	Tracy, Manteca, Salida, Modesto, Turlock, Livingstone, Atwater, Merced.	Do.
Tracy-Los Banos, Calif	MC-78786	Tracy, Westley, Crows Landing, Newman, Gustine, Los Banos.	Do.
Tracy-Montpelier, Calif	MC-78786	Tracy, Manteca, Oakdale, Waterford, Montpelier	Do.
Los Banos-Fresno, Calif	MC-78786	Los Banos, Dos Palos, Firebaugh, Mendota, Kerman, Fresno.	Do.
Fresno-Merced, Calif	MC-78786	Fresno, Biola, Madera, Chowchilla, Merced	Do.
Fresno-Caruthers, Calif	MC-78786	Fresno, Fowler, Selma, Kingsburg, Armona, Lemoore, Stratford, Caruthers.	Do.
Fresno-Coalinga, Calif	MC-78786	Fresno, Helm, Turk, Coalinga, Le Roy, Huron	Do.
Fresno-Dinuba, Calif	MC-78786	Fresno, Reedley, Dinuba, Sanger, Clovis, Friant	Do.
Fresno-Visalia, Calif	MC-78786	Fresno, Goshen Jct., Visalia, Exeter, Lemon Cove, Woodlake.	Do.
Fresno-Porterville, Calif	MC-78786	Fresno, Tulare, Porterville, Strathmore, Lindsay	Do.
Tulare-Terra Bella, Calif	MC-78786	Tulare, Tipton, Pixley, Earlimart, Delano, Famosa, Jovista, Terra Bella.	Do.
2567 Bakersfield and vicinity, Calif	MC-78786	Bakersfield, Gosford, Taft, Maricopa, Fellows, Rio Bravo, Magunden, Edison, Seguro, Oil City.	Do.
Marshfield-Powers, Oreg	MC-78786	Marshfield, Coquille, Myrtle Point, Powers	Granted.
Lake County Pear Haul, Calif	MC-78786-31	Kelseyville, Lakeport, Sebastopol, Santa Rosa, Petaluma; limited to transportation of fresh pears.	Do.
Laws-Benton, Calif	MC-78786-32	Laws, Chalfant, Benton	Do.
Hopland-Ukiah-Lakeport, Calif	MC-78786-33	Hopland, Ukiah	Do.
Hopland-Lakeport-Kelseyville, Calif	MC-78786-34	Hopland, Lakeport, Finley, Kelseyville	Do.
San Francisco-Sausalito, Calif	MC-78786-37	San Francisco-Sausalito	Do.
Salinas-King City, Calif	MC-67073	Salinas, Chualar, Gonzales, Soledad, King City	Do.
Ukiah-Upper Lake-Lucerne, Calif	MC-78786-46	Ukiah, Upper Lake, Lucerne	Do.
Santa Ana and vicinity, Calif	MC-78786-30	Santa Ana, Orange, Anaheim, Fullerton, La Habra, Brea	Do.
Monta Vista-Permanente, Calif	MC-78786-44	Monta Vista, Permanente	Temporary authority granted April 9, 1940, for 180 days. Permanent rights embraced in MC-78786-47.
Redding-Shasta Dam, Calif	MC-78786-51TA	Redding, Government Camp, Project City, Buckeye, Shasta Dam.	Temporary authority granted August 20, 1940, for 180 days. Permanent rights embraced in MC-78786-54.
Bishop-Scheelite, Calif	MC-78786-53TA	Scheelite	
		Proposed Operations	
Reedsport and vicinity, Oreg	MC-78786-4	Within 50-mile radius of Reedsport	Recommended in Proposed Report and Order of Joint Board No. 172, served Feb. 15, 1938.
Marshfield-North Bend-Empire, Oreg	MC-78786-5	Marshfield-North Bend, Empire, Coos Bay pulp plant	Recommended in Proposed Report and Order of Joint Board No. 172, served May 9, 1939.
Eugene-Springfield-Cottage Grove, Oreg	MC-78786-6	Eugene, Springfield, Creswell, Cottage Grove	Do.

Interstate operations of Pacific Motor Trucking Company in California and Oregon as of September 26, 1940, present operations—Continued

Route description	Docket No.	Major points	Status
(a)	(b)	(c)	(d)
		Proposed Operations	
Pomona-Ontario-Alta Loma, Calif	MC-78786-9	Ontario, Guasti, Chino, Cucamonga	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Jan. 10, 1940.
San Bernardino and vicinity, Calif	MC-78786-10	San Bernardino, Rialto, Bloomington, Colton, Riverside, Corona, Loma Linda, Redlands.	Do.
Saugus-Mojave, Calif	MC-78786-13	Palmdale, Lancaster, Rosamond	Do.
Santa Barbara-Montecito, Calif	MC-78786-14	Santa Barbara-Montecito	Do.
Suisun-Vallejo, Calif	MC-78786-15	Suisun, Cordelia, Benicia, Vallejo	Do.
West Hollywood-Beverley Hills, Calif	MC-78786-16	West Hollywood, Beverley Hills	
Santa Rosa-Willits, Calif	MC-78786-17	Santa Rosa, Geyserville, Cloverdale, Ukiah, Willits	Do.
South Bay-South Fork, Calif	MC-78786-18	South Bay, Fortuna, Scotia, Fernbridge, South Fork	Do.
Auburn-Truckee-Lake Tahoe, Calif	MC-78786-19	Auburn, Colfax, Dutch Flat, Cisco, Norden, Truckee, Tahoe City.	Do.
Marysville-Colusa, Calif	MC-78786-20	Marysville-Colusa	Do.
Crockett-Calistoga, Calif	MC-78786-21	Crockett, Vallejo, Napa, St. Helena, Callistoga	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Jan. 10, 1940. Limited to milk, cream and baggage for R. R. Co.; General commodities for Railway Express.
San Francisco-Oakland, Calif	MC-78786-22	San Francisco-Oakland	Recommended in Proposed Report and Order of Exam. W. T. Croft, served Jan. 10, 1940.
Tracy-Sacramento; Martel-Amador City, Calif.	MC-78786-23	Tracy, Stockton, Lodi, Galt, Sacramento, Martel, Amador City, and off-route points within 1 mile of Calif. Highway No. 49.	Do.
Sacramento-Davis, Calif	MC-78786-24	Sacramento-Davis	
Martinez-San Ramon (Enlargement), Calif.	MC-78786-25	To serve off-route points within 1 mile of authorized routes.	Do.
San Luis Obispo-Oceano, Calif	MC-78786-26	San Luis Obispo, Pismo, Oceano	Do.
Los Angeles-Alhambra-Burbank-Glendale, Calif.	MC-78786-27	Los Angeles, Alhambra, Burbank, Glendale	Do.
San Jose-Tres Pinos, Calif	MC-78786-28	San Jose, Morgan Hill, San Martin, Gilroy, Hollister, Tres Pinos.	Recommended in Proposed Report and Order of Exam. V. E. Conlan, served June 4, 1940.
Klamath Falls-Tule Lake, Oreg.-Calif	MC-78786-36	Klamath Falls, Merril, Tule Lake	Recommended in proposed report and Order of Joint Board No. 11, served Aug. 21, 1940.

El Monte and vicinity, Calif.	MC-78786-39	El Monte, Baldwin Park, Bassett, Rosemead, Albarnes, Puente.	Submitted November 17, 1939.
Colton-Niland, Calif.	MC-78786-42	Colton, Beaumont, Banning, Palm Springs, Garnet Indio, Niland.	Do.
Redding-Dunsmuir, Calif.	MC-78786-47	Redding, Pollock, Delta, Sims, Castella, Dunsmuir	Submitted June 10, 1940.
Salinas-Camp Ord, Calif.	MC-78786-48	Salinas, Monterey, Mariana, Gigling, Camp Ord	Do.
Mojave-Lone Pine, Calif.	MC-78786-49	Mojave, Searles, Cartago, Lone Pine	Submitted June 20, 1940.
Los Angeles-Long Beach, Calif.	MC-78786-50	Los Angeles-Long Beach	Do.
Bishop-Scheelite, Calif.	MC-78786-54	Scheelite	Set for hearing October 1, 1940.

2568 *Exhibit No. 55*

Witness: Hennessey

Interstate Operations of Pacific Truck Express

Route description	Major points served
(a)	(b)
Albany-Junction City, Oreg	Albany, Tangent, Harrisburg, Junction City, Corvallis.
Eugene-Roseburg, Oreg	Eugene, Goshen, Cottage Grove, Drain, Yoncalla, Oakland, Sutherlin, Roseburg.
Grants Pass-Ashland, Oreg	Grants Pass, Gold Hill, Medford, Ashland.
Marshfield-Roseburg, Oreg	Marshfield, Coquille, Norway, Myrtle Point, Roseburg.
Portland-State Line, Oreg	Portland, Woodburn, Salem, Albany, Eugene, Cottage Grove, Roseburg, Grants Pass, Medford, Ashland.
Portland-Corvallis, Oreg	Portland, Newberg, McMinnville, Dallas, Independence, Corvallis.
Portland-Eugene, Oreg	Portland, Oregon City, Woodburn, Chemawa, Salem, Albany, Junction City, Eugene.
Portland-McMinnville, Oreg	Portland, Beaverton, Hillsboro, Forest Grove, Yamhill, Tigard, Newberg, Dayton, McMinnville.
Portland-Marshfield, Oreg	Portland, Grande Ronde, Newport, Reedsport, Winchester Bay, North Bend, Marshfield.
Portland-Salem, Oreg	Portland, Woodburn, Chemawa, Salem, Silverton, Mt. Angel, Canby, Oregon City, Oswego.
Portland-Tillamook, Oreg	Portland, McMinnville, Wilamina, Tillamook.
Salem-Dallas, Oreg	Salem, Dallas, Monmouth, Amity, McMinnville.
South San Francisco-State Line, Calif	South San Francisco, San Francisco, Oakland, Willows, Red Bluff, Redding, Dunsmuir, Mt. Shasta, Weed, Yreka, Hornbrook.

2569 *Exhibit No. 56*

SOUTHERN PACIFIC COMPANY (Pacific Lines)

Examples of rail and coordinated rail-truck service offered in territory embraced by MC Docket 9115-1, application of Oregon-Nevada-California Fast Freight, Inc., and MC Dockets 42487-15 et al., applications of Consolidated Freightways, Inc.

POINTS OF ORIGIN—SAN FRANCISCO, SOUTH SAN FRANCISCO, SAN JOSE, OAKLAND, ALAMEDA, BERKELEY, EMERYVILLE, RICHMOND, SAN LEANDRO, AND SACRAMENTO, CALIFORNIA

First day		Second day		Third day	
Station	Time of arrival	Station	Time of arrival	Station	Time of arrival
Ashland, Oreg	10:10 a. m.				
Medford, Oreg	10:50 a. m.				
Gold Hill	12:40 p. m.				
Grants Pass	1:15 p. m.				
Roseburg	5:00 p. m.				
		Cottage Grove	9:40 a. m.		
		Myrtle Point	6:30 a. m.		
		Coquille	7:00 a. m.		
		Marshfield	8:00 a. m.		
		North Bend	8:40 a. m.		
		Eugene	1:00 p. m.		
Klamath Falls	10:15 a. m.				
		Algoma	10:45 a. m.		
		Modoc Point	11:45 a. m.		
		Chiloquin	1:00 p. m.		
		Lakeview	6:00 p. m.		
		Albany	7:25 p. m.		
				Tangent	6:20 a. m.
				Junction City	8:00 a. m.
				Corvallis	12:30 p. m.
		Salem	9:20 p. m.		
		Portland	6:30 p. m.		
		Woodburn	9:55 p. m.		
				Tacoma	8:00 a. m.
				Seattle	8:00 a. m.

2570

Exhibit No. 57

SOUTHERN PACIFIC COMPANY (Pacific Lines)

Examples of rail and coordinated rail-truck service offered in territory embraced by MC Docket 9115–1, application of Oregon-Nevada-California Fast Freight, Inc., and MC Dockets 42487–15 et al., applications of Consolidated Freightways, Inc.

POINT OF ORIGIN—PORTLAND, OREGON

First day		Second day		Third day	
Station	Time of arrival	Station	Time of arrival	Station	Time of arrival
Klamath Falls	6:55 a. m.			Oakland	2:00 a. m.
Algoma	10:45 a. m.			Alameda	9:00 a. m.
Modoc Point	11:45 a. m.			Berkeley	9:30 a. m.
Chiloquin	1:00 p. m.	Lakeview	6:00 p. m.	Emeryville	9:00 a. m.
Grants Pass	6:25 a. m.			Richmond	9:15 a. m.
Gold Hill	7:55 a. m.			San Leandro	9:30 a. m.
Ashland	9:00 a. m.			San Jose	1:00 p. m.
Medford	7:25 a. m.			San Francisco	4:00 a. m.
Eugene	[1]10:57 p. m.			South San Francisco	2:30 p. m.
Cottage Grove	1:50 a. m.				
Roseburg	6:00 a. m.				
Marshfield	5:20 a. m.				
North Bend	8:40 a. m.				
Myrtle Creek	8:30 a. m.				
Coquille	7:15 a. m.				
Salem	7:50 a. m.				
Albany	[1]8:43 p. m.				
Junction City	8:00 a. m.				
Tangent	6:20 a. m.				
Corvallis	1:10 p. m.				
		Sacramento	9:45 p. m.		

[1] Shipping day.

2571 *Exhibit No. 58*

Pacific Truck Express

Schedules for handling interstate traffic in Oregon

Albany-Junction City

Lv.	Albany	6:20 a. m.
	Harrisburg	7:15 a. m.
	Junction City	8:00 a. m.
	Corvallis	12:30 p. m.
Ar.	Albany	2:00 p. m.

Grants Pass-Ashland

Lv.	Grants Pass	7:15 a. m.
	Gold Hill	7:55 a. m.
	Medford	8:25 a. m.
Ar.	Ashland	9:00 a. m.
Lv.	Ashland	11:30 a. m.
Ar.	Medford	11:50 a. m.
	Gold Hill	12:40 p. m.
	Grants Pass	1:15 p. m.

Portland-State Line

Lv.	Portland	7:00 p. m.
	Salem	8:30 p. m.
	Albany	10:05 p. m.
	Eugene	11:45 p. m.
	Cottage Grove	12:30 a. m.
	Roseburg	2:30 a. m.
	Grants Pass	6:00 a. m.
Ar.	Medford	7:00 a. m.
Lv.	Medford	12:01 p. m.
Ar.	Ashland	12:25 p. m.
Ar.	State Line	1:30 p. m.
Lv.	State Line	9:45 a. m.
Ar.	Medford	10:15 a. m.
Lv.	Medford	4:00 p. m.
Ar.	Eugene	11:30 p. m.
Ar.	Portland	5:00 a. m.

Eugene-Roseburg

Lv.	Eugene	1:00 a. m.
Ar.	Roseburg	4:00 a. m.
Lv.	Roseburg	6:00 a. m.
	Oakland	7:05 a. m.
	Drain	8:40 a. m.
	Cottage Grove	9:40 a. m.
Ar.	Eugene	11:00 a. m.

Marshfield-Roseburg

Lv.	Marshfield	12:01 a. m.
	Coquille	12:40 a. m.
	Myrtle Point	1:00 a. m.
Ar.	Roseburg	3:00 a. m.
Lv.	Roseburg	4:30 a. m.
	Myrtle Point	6:30 a. m.
	Coquille	7:00 a. m.
	Marshfield	8:00 a. m.

Portland-Eugene

Lv.	Portland	5:00 p. m.
	Gervais	6:30 p. m.
	Salem	7:15 p. m.
	Junction City	10:20 p. m.
Ar.	Eugene	10:45 p. m.
Lv.	Eugene	1:00 a. m.
	Albany	3:30 a. m.
	Salem	5:00 a. m.
Ar.	Portland	7:30 a. m.

Portland-McMinnville

Lv.	Portland	2:00 a. m.
	Tigard	2:20 a. m.
	Newberg	3:00 a. m.
Ar.	McMinnville	4:00 a. m.
Lv.	McMinnville	5:00 a. m.
Ar.	Carlton	5:15 a. m.
	Forest Grove	6:00 a. m.
	Hillsboro	6:45 a. m.
Ar.	Portland	9:00 a. m.

Portland-Salem

Lv.	Portland	8:00 p. m.
Ar.	Salem	12:01 a. m.
Lv.	Salem	2:00 a. m.
	Woodburn	4:00 a. m.
	Oregon City	5:00 a. m.
Ar.	Portland	6:00 a. m.

Salem-Dallas

Lv.	Salem	7:00 a. m.
	Dallas	7:30 a. m.
	Independence	8:30 a. m.
Ar.	Salem	11:00 a. m.

Portland-Marshfield

Lv.	Portland	7:30 p. m.
	Reedsport	3:20 a. m.
	North Bend	4:50 a. m.
Ar.	Marshfield	5:00 a. m.
Lv.	Marshfield	7:00 p. m.
	North Bend	7:10 p. m.
	Reedsport	8:00 p. m.
Ar.	Portland	4:00 a. m.

Portland-Tillamook

Lv.	Portland	8:00 p. m.
	McMinnville	9:15 p. m.
	Willamina	10:10 p. m.
Ar.	Tillamook	12:15 a. m.
Lv.	Tillamook	1:15 a. m.
	Willamina	3:00 a. m.
	McMinnville	3:45 a. m.
Ar.	Portland	6:00 a. m.

2572

Exhibit No. 59

Pacific Southwest Railroad Association

Freight agency stations maintained by Southern Pacific Company, Northwestern Pacific Railroad Company and Western Pacific Railroad Company, between south San Francisco, California, and Portland, Oregon

Station	Railroad
Acampo, Calif	S. P.
Alameda, Calif	S. P.
Albany, Oreg	S. P.
Alderpoint, Calif	N. W. P.
Algoma, Oreg	S. P.
Alturas, Calif	S. P.
Anderson, Calif	S. P.
Antioch, Calif	S. P.
Arbuckle, Calif	S. P.
Arcata, Calif	N. W. P.
Ashland, Oreg	S. P.
Avon, Calif	S. P.
Belden, Calif	W. P.
Benicia, Calif	S. P.
Berkeley, Calif	S. P.
Bieber, Calif	W. P.
Biggs, Calif	S. P.
Black Rock, Oreg	S. P.
Blairsden, Calif	W. P.
Brentwood, Calif	S. P.
Brooklyn, Oreg	S. P.
Brooks, Oreg	S. P.
Brownsville, Oreg	S. P.
Byron, Calif	S. P.
Calistoga, Calif	S. P.
Canby, Oreg	S. P.
Cascade Summit, Oreg	S. P.
Carlton, Oreg	S. P.
Chemawa, Oreg	S. P.
Chemult, Oreg	S. P.
Chico, Calif	S. P.
Chilcoot, Calif	W. P.
Chiloquin, Oreg	S. P.
Clakamas, Oreg	S. P.
Cloverdale, Calif	N. W. P.
Cochran, Oreg	S. P.
Colusa, Calif	S. P.
Concord, Calif	S. P.
Coquille, Oreg	S. P.
Corvallis, Oreg	S. P.
Corning, Calif	S. P.
Coram, Calif	S. P.
otati, Calif	N. W. P.
Cottonwood, Calif	S. P.
Cottage Grove, Oreg	S. P.
Crescent Mills, Calif	W. P.
Crescent Lake, Oreg	S. P.
Crockett, Calif	S. P.
Cushman, Oreg	S. P.
Canby, Calif	S. P.
Dallas, Oreg	S. P.
Davis, Calif	S. P.
Delta, Calif	S. P.
Diamond Springs, Calif	S. P.
Dixon, Calif	S. P.
Dorris, Calif	S. P.
Dos Rios, Calif	N. W. P.
Drain, Oreg	S. P.
Durham, Calif	S. P.
Dunsmuir, Calif	S. P.
East Oakland, Calif	S. P.
East Portland, Oreg	S. P.
Elk Grove, Calif	S. P.
Elmhurst, Calif	S. P.
Emeryville, Calif	S. P.
Enright, Oreg	S. P.
Esparto, Calif	S. P.
Eugene, Oreg	S. P.
Eureka, Calif	N. W. P.
Fairfax, Calif	N. W. P.
Fair Grounds, Oreg	S. P.
Fair Oaks, Calif	S. P.
Fernbridge, Calif	N. W. P.
Flander, Oreg	S. P.
Florin, Calif	S. P.
Folsom, Calif	S. P.
Forest Grove, Oreg	S. P.
Fortuna, Calif	N. W. P.
Fruitvale, Calif	S. P.-W. P.
Fulton, Calif	N. W. P.
Galt, Calif	S. P.
Gazelle, Calif	S. P.
Gerber, Calif	S. P.
Gervais, Oreg	S. P.
Geyserville, Calif	N. W. P.
Giant, Calif	S. P.
Glendale, Oreg	S. P.
Gold Hill, Oreg	S. P.
Grants Pass, Oreg	S. P.
Greenville, Calif	W. P.
Grenada, Calif	S. P.
Gridley, Calif	S. P.
Grimes, Calif	S. P.
Halsey, Oreg	S. P.
Hamilton, Calif	S. P.
Harrisburg, Oreg	S. P.
Hawley, Calif	W. P.
Hayward, Calif	S. P.
Healdsburg, Calif	N. W. P.
Hillsboro, Oreg	S. P.
Hilt, Calif	S. P.
Hood, Calif	S. P.
Hopland, Calif	N. W. P.
Hornbrook, Calif	S. P.
Ignacio, Calif	N. W. P.
Independence, Oreg	S. P.
Ione, Calif	S. P.
Isleton, Calif	S. P.
Jefferson City, Oreg	S. P.
Jefferson St., Oreg	S. P.
Keddie, Calif	W. P.
Kingdon, Calif	W. P.
Klamath Falls, Oreg	S. P.
Knights Landing, Calif	S. P.
2573 Lakeview, Oreg	S. P.
Larkspur, Calif	N. W. P.
Lathrop, Calif	S. P.
Leaf, Calif	S. P.
Lebanon, Oreg	S. P.
Likely, Calif	S. P.
Lincoln, Calif	S. P.
Litchfield, Calif	S. P.
Live Oak, Calif	S. P.
Livermore, Calif	S. P.
Locke, Calif	S. P.
Lodi, Calif	S. P.
Loleta, Calif	N. W. P.

***Freight agency stations maintained by Southern Pacific Company, Northwestern Pacific Railroad Company and Western Pacific Railroad Company, between south San Francisco, California, and Portland, Oregon*—Con.**

Station	Railroad	Station	Railroad
Los Molinos, Calif	S. P.	San Anselmo, Calif	N. W. P.
Lyons, Oreg	S. P.	San Francisco, Calif	N. W. P.-W. P.-S. P.
Macdoel, Calif	S. P.	San Leandro, Calif	S. P.
Madeline, Calif	S. P.	San Rafael, Calif	N. W. P.
Manteca, Calif	S. P.	Santa Rosa, Calif	N. W. P.
Marcola, Oreg	S. P.	Sausalito, Calif	N. W. P.
Marshfield, Oreg	S. P.	Schellville, Calif	S. P.-N. W. P.
Martinez, Calif	S. P.	Scotia, Calif	N. W. P.
Marysville, Calif	W. P.-S. P.	Seghers, Oreg	S. P.
Matheson, Calif	S. P.	Sheridan, Oreg	S. P.
Maxwell, Calif	S. P.	Silverton, Oreg	S. P.
Merrill, Oreg	S. P.	Sloat, Calif	W. P.
Medford, Oreg	S. P.	Sonoma, Calif	N. W. P.
Mill City, Oreg	S. P.	South Fork, Calif	N. W. P.
Mill Valley, Calif	N. W. P.	So. San Francisco, Calif	S. P.
Modoc Point, Oreg	S. P.	Stege, Calif	S. P.
Monroe, Oreg	S. P.	Spring Garden, Calif	W. P.
Montague, Calif	S. P.	St. Helena, Calif	S. P.
Mt. Angel, Oreg	S. P.	Stockton, Calif	W. P.-S. P.
Mt. Shasta, Calif	S. P.	Stock Yards, Calif	S. P.
Myrtle Creek, Oreg	S. P.	Suisun-Fairfield, Calif	S. P.
Myrtle Point, Oreg	S. P.	Susanville, Calif	S. P.
		Swanston, Calif	S. P.
Napa, Calif	S. P.	Swisshome, Oreg	S. P.
Napa Jct., Calif	S. P.	Selby, Calif	S. P.
Newberg, Oreg	S. P.	South Vallejo, Calif	S. P.
North Bend, Oreg	S. P.	Springfield, Oreg	S. P.
Novato, Calif	N. W. P.		
		Tangent, Oreg	S. P.
Oakland, Calif	W. P.	Tehama, Calif	S. P.
Oakland, Oreg	S. P.	Terminous, Calif	W. P.
Oakland, 5th and Kirkham Sts.	S. P.	Thornton, Calif	W. P.
Oakridge, Oreg	S. P.	Tiburon, Calif	N. W. P.
Oleum, Calif	S. P.	Tillamook, Oreg	S. P.
Oregon City, Oreg	S. P.	Timber, Oreg	S. P.
Orland, Calif	S. P.	Toledo, Oreg	S. P.
Oroville, Calif	W. P.-S. P.	Tracy, Calif	S. P.
Oswego, Oreg	S. P.	Tule Lake, Calif	S. P.
		Ukiah, Calif	N. W. P.
Pacsteel, Calif	S. P.		
Paraffin, Calif	S. P.	Vacaville, Calif	S. P.
Penn Grove, Calif	N. W. P.	Valley Springs, Calif	S. P.
Petaluma, Calif	N. W. P.	Veneta, Oreg	S. P.
Pinole, Calif	S. P.		
Pittsburg, Calif	S. P.	2574 Walnut Creek, Calif	S. P.
Placerville, Calif	S. P.	Walnut Grove, Calif	S. P.
Pollock, Calif	S. P.	Weed, Calif	S. P.
Port Chicago, Calif	S. P.	Wendel, Calif	S. P.
Port Costa, Calif	S. P.	Wendling, Oreg	S. P.
Portland, Oreg	S. P.	Westfir, Oreg	S. P.
Portola, Calif	W. P.	West Scio, Oreg	S. P.
Powers, Oreg	S. P.	West Stayton, Oreg	S. P.
Pulga, Calif	W. P.	Westwood, Calif	W. P.-S. P.
Quincy Jct., Calif	W. P.	Wheatland, Calif	S. P.
		Wheeler, Oreg	S. P.
Radum, Calif	S. P.	Whiteson, Oreg	S. P.
Red Bluff, Calif	S. P.	Willamina, Oreg	S. P.
Redding, Calif	S. P.	Willits, Calif	N. W. P.
Reno Jct., Calif	W. P.	Willows, Calif	S. P.
Richmond, Calif	S. P.	Williams, Calif	S. P.
Rodeo, Calif	S. P.	Willow Ranch, Calif	S. P.
Roseburg, Oreg	S. P.	Winters, Calif	S. P.
Roseville, Calif	S. P.	Woodburn, Oreg	S. P.
Rutherford, Calif	S. P.	Woodland, Calif	S. P.
Reedsport, Oreg	S. P.		
		Yolo, Calif	S. P.
Sacramento, Calif	W. P.-S. P.	Yountville, Calif	S. P.
Salem, Oreg	S. P.	Yuba City, Calif	S. P.

	Number of agencies
California, North of South San Francisco	181
Oregon	82
Total	263

2575

Exhibit No. 60

PACIFIC SOUTHWEST RAILROAD ASSOCIATION

Carload traffic consigned to Lakeview Creamery or R. M. Johns, receiver for Lakeview Creamery, August 1939 to July 1940

Car No.	Contents	From	Date	Lakeview		
				Due	Arrived	Delivered
(a)	(b)	(c)	(d)	(e)	(f)	(g)
SP-23602	Beer	San Francisco	8-15-39	8-18-39	8-18-39	8-19-39
SLSF-162389	Beer	San Francisco	8-21-39	8-24-39	8-25-39	8-26-39
PE-2821	Beer	San Francisco	8-29-39	9- 1-39	9- 2-39	9- 5-39
SP-26161	Beer	San Francisco	9-28-39	10- 2-39	10- 2-39	[1] 10- 3-39
SP-23448	Beer	San Francisco	10-17-39	10-20-39	10-20-39	10-21-39
SP-16046	Beer	San Francisco	10-26-39	10-30-39	10-30-39	[1] 10-31-39
PFE-14746	Beer	San Francisco	11-22-39	11-25-39	11-25-39	[1] 11-27-39
PFE-29073	Beer	San Francisco	12- 7-39	12-11-39	12-11-39	[1] 12-12-39
PFE-70421	Beer	San Francisco	12-29-38	1- 2-40	1- 2-40	[1] 1- 3-40
PFE-34551	Beer	San Francisco	1-25-40	1-29-40	1-29-40	[1] 1-30-40
PFE-41938	Beer	San Francisco	2-15-40	2-19-40	2-19-40	[1] 2-20-40
PFE-11198	Beer	San Francisco	3- 5-40	3- 8-40	3- 8-40	3- 9-40
SP-27988	Beer	San Francisco	3-22-40	3-25-40	3-25-40	3-26-40
TNO-35264	Beer	San Francisco	6-19-40	6-22-40	6-22-40	[1] 6-24-40

[1] Sunday intervening.

2576

Exhibit No. 61

PACIFIC SOUTHWEST RAILROAD ASSOCIATION

Less-than-carload traffic consigned to Lakeview Creamery or R. M. Johns, receiver for Lakeview Creamery, August 1939 to July 1940

Freight Bill No.	Commodity	Weight	From	Date	Lakeview		
					Due	Arrived	Delivered
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
3022	Anh. ammonia	270	Pittsburg, Calif.	8-30-39	9- 4-39	9- 4-39	[1 2] 9- 5-39
3107	Milk bottle discs	159	Oakland	9- 8-39	9-11-39	9-11-39	[2] 9-12-39
3579	Flav. syrup	530	Los Angeles	10-11-39	10-15-39	10-15-39	[2] 10-16-39
4153	Mach. parts	64	San Francisco	11-27-39	11-29-39	11-29-39	11-30-39
4266	Milk bottle discs	157	Oakland	12- 7-39	12-10-39	12-10-39	[2] 12-11-39
384	Milk bottle discs	234	San Francisco	2- 8-40	2-11-40	2-11-40	[2] 2-12-40
902	Cream separator	170	San Francisco	3-25-40	3-27-40	3-27-40	3-28-40
1301	Cones	130	Oakland	4-27-40	4-30-40	4-30-40	[2] 5- 1-40
1756	Register paper	74	Oakland	6- 1-40	6- 4-40	6- 4-40	[2] 6- 5-40
1882	Bottle caps	156	San Francisco	6-10-40	6-13-40	6-14-40	[3] 6-14-40
2112	Bottle caps	155	San Francisco	6-21-40	6-24-40	6-25-40	[3] 6-26-40
2222	Anh. ammonia	271	Pittsburg	6-29-40	7- 5-40	7- 5-40	[1 2 4] 7-6-40
2395	Flav. syrup	348	San Francisco	7-16-40	7-18-40	7-18-40	7-19-40

[1] Moved in regular freight service account I. C. C. Safety Rules preclude handling in passenger trains.
[2] Sunday intervening.
[3] Moved in regular freight service, account strike conditions San Francisco Bay area precluded handling in passenger trains.
[4] Holiday intervening.

2577 *Exhibit No. 62*

PACIFIC SOUTHWEST RAILROAD ASSOCIATION

Less-than-carload traffic consigned to Adams and Reynolds, Lakeview, Oregon, from Sacramento and San Francisco Bay area, September 1939 to August 1940

Freight Bill No.	Commodity	Weight	From	Date	Lakeview		
					Due	Arrived	Delivered
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
3136	Paints	215	Sacramento	9-11-39	9-13-39	9-13-39	9-14-39
3604	Nails and tools	460	Sacramento	10-14-39	10-17-39	10-17-39	[1] 10-18-39
3819	Hardware	107	Sacramento	10-31-39	11- 2-39	11- 2-39	11- 3-39
3891	Flooring	1,613	Oakland	11- 6-39	11- 8-39	11- 8-39	11- 9-39
4037	Paint	140	San Francisco	11-17-39	11-20-39	11-20-39	[1] 11-21-39
4249	Paint	673	Sacramento	12- 5-39	12- 7-39	12- 7-39	12- 8-39
54	Lumber	120	Oakland	1- 5-40	1- 8-40	1- 8-40	[1] 1- 9-40
170	Lumber	75	Oakland	1-19-40	1-22-40	1-22-40	[1] 1-23-40
171	Paint	50	Oakland	1-19-40	1-22-40	1-22-40	[1] 1-23-40
206	Lumber	50	Oakland	1-23-40	1-25-40	1-25-40	1-26-40
268	Steel	1,829	San Francisco	1-26-40	1-29-40	1-29-40	[1] 1-30-40
429	Floor finish	50	Oakland	2-13-40	2-15-40	2-15-40	2-16-40
462	Roofing and nails	2,430	Oakland	2-15-40	2-18-40	2-18-40	[1] 2-19-40
652	Paper bags	117	Sacramento	3- 5-40	3- 7-40	3- 7-40	3- 8-40
1325	Wallboard	1,115	Oakland	4-20-40	5- 1-40	5- 1-40	5- 2-40
1477	Asphalt Shngls	255	Oakland	5-10-40	5-13-40	5-13-40	[1] 5-14-40
1913	Elec. Ranges	552	Oakland	6-13-40	6-16-40	6-16-40	[2] 6-17-40
2063	Steel sash	279	San Francisco	6-19-40	6-22-40	6-22-40	[2] [3] 6-24-40
2237	Flooring	1,302	San Francisco	7- 2-40	7- 5-40	7- 7-40	[2] [3] 7- 8-40
2420	Hardware	28	Sacramento	7-18-40	7-20-40	7-20-40	[1] 7-22-40
2458	Wallpaper	55	San Francisco	7-19-40	7-22-40	7-22-40	[1] 7-23-40
2500	Linoleum	116	Oakland	7-24-40	7-26-40	7-26-40	7-27-40
2861	Refgr. Machine	116	Oakland	8-22-40	8-24-40	8-24-40	[1] 8-26-40

[1] Sunday intervening.
[2] Moved in regular freight service, account strike conditions San Francisco Bay area precluded handling in passenger trains.
[3] Holiday intervening.

2578 *Exhibit No. 63*

PACIFIC SOUTHWEST RAILROAD ASSOCIATION

Less-than-carload traffic consigned to Adams and Reynolds, Lakeview, Oregon, from Portland, Oregon to Lakeview, Oregon, September 1939 to August 1940

Freight bill No.	Commodity	Weight	From	Date	Lakeview		
					Due	Arrived	Delivered
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
4453	Insulating material	260	Portland	12-28-39	12-30-39	12-30-39	12-30-39
1909	Sash and Doors	240	Portland	6-12-40	6-14-40	6-14-40	6-15-40
1971	Hardware	120	Portland	6-14-40	6-17-40	6-17-40	[1] 6-18-40
2055	Plate Glass	420	Portland	6-18-40	6-20-40	6-21-40	6-22-40
2416	Plate Glass	275	Portland	7-17-40	7-19-40	7-19-40	7-20-40
2736	Lumber	140	Portland	8-12-40	8-14-40	8-14-40	8-15-40

[1] Sunday intervening.

2579 *Exhibit No. 64*

CONSOLIDATED FREIGHTWAYS, INC.

Financial statistics as reported to the Oregon State Public Utilities Commission

Balance sheets as at December 31, 1939, and December 31, 1938

ASSETS

	December 31,		Increases—decreases
	1938	1939	
Current Assets:			
Cash and working funds	$88,360.83	*$27,519.91*	
Receivables	107,403.22	161,488.13	
Subscriptions to capital stock	389.03	14,240.88	
Materials and supplies	109,066.25	132,481.52	
	305,219.33	280,690.62	*$24,528.71*
Prepayments	27,239.11	72,150.66	44,211.55
Investments in and Advances to Other Companies	142,675.22	95,566.09	*47,109.13*
Other Investments and Advances	19,311.00	10,193.76	*9,117.24*
Property, Plant, and Equipment:			
Trucks, equipment, improvements and unfinished construction	1,612,085.98	1,714,766.25	
Buildings and improvements	166,362.63	168,699.87	
	1,778,448.61	1,883,465.12	
Less: Reserve for depreciation	893,108.96	914,859.22	
	885,339.65	968,605.90	
Land	53,836.36	69,552.48	
	939,176.01	1,038,158.38	98,982.37
Noncarrier property, less depreciation		10,578.97	10,578.97
Franchises and Goodwill	122,243.42	154,659.51	32,414.09
	1,555,866.09	1,661,997.99	106,131.90

LIABILITIES

Current Liabilities:			
Notes payable	$6,922.93	$1,350.00	
Wages payable	108,295.54	86,188.43	
Accounts payable	108,621.37	100,779.57	
Accrued taxes payable	61,608.81	108,678.63	
Other listed current liabilities	31,654.07	33,312.68	
Obligations secured by property and equipment maturing within one year	63,722.58	164,147.43	
	380,825.30	494,456.74	$113,631.44
Reserves for injuries, loss and damage, and miscellaneous	20,185.22	12,800.71	*7,384.51*
Advances Received From Associated Companies	34,030.60		*34,030.60*
Other Noncurrent Liabilities—including obligations secured by property and equipment maturing after one year	285,260.54	169,880.12	*115,380.42*
Deferred Credits	3,284.18	14,518.68	11,234.50
Total liabilities	723,585.84	691,656.25	*31,929.59*
Capital and Surplus:			
Preferred stock (less amount reacquired)	498,850.00	508,975.00	
Common stock	115,379.57	115,379.57	
	614,229.57	624,354.57	
Surplus	218,050.68	345,987.27	
	832,280.25	970,341.74	138,861.49
	1,555,866.09	1,651,997.99	106,131.90

NOTE.—Statements submitted to the Oregon State Public Utilities Commission did not indicate whether provision was made for federal income and state excise taxes, or whether reserves carried among the liabilities were of a current nature.

NOTE.—Information concerning rate of depreciation indicates that 10% per annum has been charged against autos, trucks, and equipment during the past several years. The amount appears unusually low as truck equipment, generally, is depreciated over a period of not in excess of six years.

2580 *Financial statistics are reported to the Oregon State Public Utilities Commission as at December 31st*

WORKING CAPITAL

	1935	1936	1937	1938	1939
Current Assets:					
Cash and working funds	$51,304.55	$54,994.19	$107,604.96	$88,360.83	*27,519.91*
Receivables	137,004.24	141,034.91	127,707.80	107,403.22	161,488.13
Subscriptions to capital stock				389.03	14,240.88
Materials, supplies and other current assets	99,784.16	111,018.59	120,148.48	109,066.25	132,481.52
Total current assets	288,092.95	307,047.69	355,461.24	305,219.33	280,690.62
Current Liabilities (Excluding liability secured by equipment which is due within 12 months):					
Notes payable	146,526.36	46,287.46	83,352.03	6,922.93	1,350.00
Wages and accounts payable	187,577.49	263,657.85	333,021.69	216,916.91	186,968.00
Other current liabilities	19,890.91	37,743.09	46,607.75	93,262.88	141,991.31
Total liabilities listed as current	353,994.76	347,688.40	462,981.47	317,102.72	330,309.31
Net Working Capital (Deficit) (before deducting current liabilities that were secured by equipment)	*65,901.81*	*40,640.71*	*107,520.23*	*11,883.39*	*49,618.69*
Admitted Liabilities due within 1 year not included in above current liabilities				63,722.58	164,147.43
Adjusted Net Working Capital (Deficit)				*75,605.97*	*213,766.12*
Adjusted working capital (deficit):					
December 31, 1939					*213,766.12*
December 31, 1938					*75,605.97*
Decrease in working capital during 1939					*138,160.15*

2581 *Statement of Sources and Applications of Funds for the Calendar Year 1939 as Prepared from Information Submitted to the Oregon State Public Utilities Commission*

Funds Were Applied to:		
1. Additional operating property	$98,982.37	
2. Nonoperating and intangible property	42,993.06	
3. Prepayments and other deferred debits	44,911.55	
4. Reduction of debt—		
(a) Owed associated companies	34,080.60	
(b) Other long-term debts	115,380.42	
5. Reduction of other liability reserves	7,384.51	
Total funds applied		$343,682.51
These Funds Were Obtained From the Following Sources:		
1. Added capital and surplus	138,061.49	
2. Liquidation of—		
(a) Receivables from associated companies	47,109.13	
(b) Other investments and advances	9,117.24	
3. Increase in deferred credits (liabilities)	11,234.50	
Total		205,522.36
Net Difference—representing funds obtained by a reduction of net working capital		138,160.15

2582 *Exhibit 65*

CONNECTIONS TO CALIFORNIA POINTS

Pierce Auto Freight Lines, Inc.

PORTLAND, OREGON,
June 28, 1940.

Re: I. C. C. Application of Consolidated Freightways, Inc. for Extension of Service from Klamath Falls-Medford to San Francisco.

Re: I. C. C. Application of Oregon-Nevada-California Fast Freight Inc. for Extension from Medford to Portland.

W. P. FULLER & COMPANY,
18 River Street, Boise, Idaho.

GENTLEMEN: The above applications have been set for hearing at Portland, Oregon, on July 8th and 11th, respectively.

We are operating a daily fixed termini service between Portland and San Francisco, serving all intermediate points. There are also several other carriers rendering service between California points, on the one hand, and Oregon and Washington points on the other. There are so many carriers serving this territory at the present time that it has been extremely difficult for most of them to obtain sufficient traffic to make their operations profitable, and the granting of rights to new competing carriers constitutes a serious threat to the continuance of service by carriers who have pioneered in establishing service to the public.

In meeting this serious threat to our operations we are compelled to call upon our shipper friends for assistance, sincerely believing that in assisting us in establishing the facts you will at the same time be serving your own interest. In view of the short time available before the hearing, and the uncertainty as to the amount of time which will be available for presenting our defense, it is necessary that we know at the earliest possible date whether we can depend on you to appear in our behalf if needed. Upon receipt of advice to that effect we can better formulate our plans and advise you when and where to appear.

2583 The nature of your testimony would be as to the sufficiency of existing service to meet your needs and the needs of the shipping public as you know it, with perhaps brief comment on the desirability of avoiding needless duplication of service at public expense.

That you may be fully informed on the nature and extent of service now offered, we attach a list of all carriers serving the

territory with a brief description of the nature and character of service afforded at the present time.

Your favorable response at the earliest possible date will be sincerely appreciated.

Sincerely yours,

PIERCE AUTO FREIGHT LINES, INC.,
By A. C. PIERCE, *President.*

2584 LIST OF OPERATORS NOW GIVING SERVICE BETWEEN CALIFORNIA AND POINTS IN THE NORTHWEST

I. *Cascade Fast Freight*—Daily service between Los Angeles on the one hand and Portland on the other, serving certain intermediate points. Connections at Portland for northwest points; also serving San Francisco. General commodities handled. Route U. S. Highway 99.

II. *Colletti Fast Freight*—Daily service between Los Angeles on the one hand and Portland and Seattle on the other, serving certain intermediate points. Connections for northwest points. General commodities handled. Route U. S. Highway 99.

III. *Los Angeles-Seattle Motor Express*—Daily service between Los Angeles on the one hand and Portland and Seattle on the other, serving certain intermediate points. Connections at Portland and Seattle for northwest points. General commodities handled. Route U. S. Highway 99 and others.

IV. *Pierce Auto Freight Lines, Inc.*—Daily service between Portland and San Francisco and all intermediate points with connections at San Francisco for Los Angeles and other points. Also connections at Portland for northwest points. General commodities handled. Route U. S. Highway 99.

V. *Oregon Nevada California Fast Freight, Inc.*—Daily service between San Francisco on the one hand and Medford and Klamath Falls on the other, serving certain intermediate points, with connections at Medford with the Consolidated Freightways for northwest points. General commodities handled. Route U. S. Highway 99.

VI. *O. J. Mitchell—Mitchell Brothers*—Daily service between Vancouver, Wn., and San Francisco, serving certain intermediate points. General commodities handled. Route U. S. Highway 99.

VII. *Consolidated Freightways*—Daily service between Seattle, Portland, and various points in the northwest on the one hand and Medford and Klamath Falls on the other, with connections in Medford with Oregon Nevada California Fast Freight for San Francisco and other California points. General commodities handled. Route U. S. Highway 99.

VIII. *Pacific Coast Motor Freight*—Service between Portland and Los Angeles and certain intermediate points. General commodities handled. Route U. S. Highway 101 between Los Angeles and Crescent City, California and Highway 99 between Grants Pass and Portland.

IX. *Pacific Refrigerated Motor Lines*—Service between Seattle and Los Angeles and certain intermediate points. Route U. S. Highway 99.

X. *Pacific Truck Express*—Daily service between Portland and San Francisco and all intermediate points. General commodities handled. Route U. S. Highway 99.

XI. *Rail Service*—Between California points on the one hand and Oregon and Washington points on the other.

XII. *Boat Service*—Between Los Angeles and San Francisco on the one hand and Portland and Seattle on the other.

DO WE NEED MORE?

2585 *Exhibit No. 66*

STATEMENT CONTAINING EXCERPTS OF STATEMENT BY WITNESS A. C. PIERCE IN DOCKET NO. MC–17593 SUB. NO. 1

By Mr. KNEELAND:

Q. Will you describe the commencement of the operation of the Pierce Auto Freight Lines and its growth and history down to the present date?

A. * * * About 1931, we secured a concurrence from the Oregon-California Fast Freight Lines who were operating on a daily schedule between San Francisco and Medford. In securing this concurrence, we were hoping to secure additional tonnage moving between Oregon and California. We secured a fair volume of tonnage from Oregon points moving to California over the Oregon-California route. However, we received but very little merchandise from the Oregon-California Fast Freight Lines moving north to Oregon points. I contacted Mr. Gritsch, manager of this company, endeavoring to secure a greater portion of tonnage moving north-bound to Oregon points, and was advised by him that it was not possible to give us any freight unless it was so routed via our lines from Medford on north. This, he explained, was due to an agreement between their company and the Consolidated Freight Lines, which agreement ran for approximately two years. Upon the expiration of these two years, I again contacted Mr. Gritsch on this subject, and he stated that the agreement
2586 was in effect for three years. At a later date, I again contacted Mr. Gritsch and was informed that this agreement

covered a period of five years. By this time I had come to a definite conclusion, that it was not possible to secure a fair volume of tonnage from them. We were also experiencing considerable difficulty in effecting collection of C. O. D.'s and settling claims, due to numerous delays on their part.

It was becoming more evident each year that by far the largest percent of our tonnage moved from the north to southern Oregon points; in fact, about 80% of the total tonnage handled was southbound, this leaving only 20% of total for return haul. This situation required the securing of additional tonnage moving northbound in order to make possible a more balanced operation, if we expected to continue on a profitable basis.

* * * * *

Our service has a distinct advantage to the shipping public over that of any other existing carrier operating daily between Oregon and California points for the reason that we are the only termini common carrier handling general merchandise over the entire route which we cover operating under one management.

The Oregon-California Fast Freight Lines operate between San Francisco and Medford, and their service is of the same type as we are rendering.

2587 The Consolidated Freight Lines operate between Portland and Southern Oregon points and they likewise render the same type of service in this particular territory. These two companies connect at Medford, and transfer freight moving to and from California and Oregon points. On freight that originates in California moving north of Medford, or on Oregon Freight destined to California points south of Medford, it is necessary for a transfer of freight at Medford. Shipments leaving Portland on Saturday, destined to points in California, are not delivered until Tuesday of the following week. In contrast to this service, shipments made the same day move over Pierce Auto Freight Lines and are delivered on the following Monday. The same schedule of service holds true on shipments originating in San Francisco destined to points north of Medford when shipped on a Saturday. The service that we are rendering has become especially advantageous to shippers when making shipments of perishable merchandise over the week end.

* * * * *

For some time after we extended our operations into California, we made a physical transfer of freight moving to points north and south of Medford for two reasons: There was not sufficient tonnage to warrant the routing of the Oregon trucks straight through to California points, and the equipment from California points straight through to Portland. Also this transfer was made due to

the additional cost of licensing our entire fleet in both states, our volume of tonnage at that time not justifying the licensing
2588 of all main line units. However, since our tonnage has increased so materially, the most of our equipment has been licensed in both states, and we are now loading the merchandise originating in Portland and San Francisco destined to points north and south of Medford, in such a manner that the equipment can be routed directly through to destination without the necessity of transferring the freight at Medford. There are exceptions to this rule, but we are making a practice of this procedure whenever possible, as it not only eliminates the necessity of rehandling the freight, which causes more loss and damage claims, but eliminates the hours of labor which are necessitated in the transfer of merchandise. This practice, therefore, is not only more beneficial to the shipper, but effects a great saving to the company. As an example of this advantage to the shipper, we have had many requests from shippers to route their merchandise on a through truck if possible, eliminating the necessity of rehandling.

* * * The Pierce Auto Freight Lines operation makes possible the transferring of freight destined to and from points in Oregon and California, beyond the territory served directly by our company, without the necessity of connecting carriers transferring to a competitor. By this is meant, that if a carrier operating between Portland and Seattle, who is directly in competition with Consolidated Freight Lines, receives a shipment of merchandise at Seattle destined to Medford, and is unable to
2589 transfer this shipment at Portland to such a carrier as the Pierce Auto Freight Lines, instead, is required to transfer to the Consolidated Freight Lines, his competitor, such a procedure results in a very unsatisfactory condition.

Exhibit No. 69

Docket MC–42487, Subs. 15, 18, 19, 20

Witness: Weisler

CASCADE FAST FREIGHT

Recapitulation of revenues, between certain points, as taken from carriers monthly fee report to Oregon Public Utilities Commission, January through August 1940

	Between San Francisco, and—			Between Los Angeles, and—								Grand total
	Portland	Salem	Roseburg	Portland	Salem	Eugene	Medford	Roseburg	Albany	Corvallis	Beyonds	
Jan	$1,091.17			$6,264.99	$89.15	$120.51	$113.45	$25.57	$16.13	$18.45	$2,388.06	$10,127.48
Feb	743.54			6,202.07	116.54	205.87	348.81	31.59	18.37	46.59	1,921.67	9,635.05
Mar	1,203.30			9,457.95	393.83	354.09	302.30	30.11	69.69		285.65	12,096.92
Apr	1,629.22			10,733.10	401.29	318.44	260.69	127.48	60.12	35.72	327.21	13,889.27
May	1,637.25			11,266.60	249.90	166.88	225.89	34.30	32.21	32.58	896.46	14,542.07
June	2,041.26	$774.50	$140.75	10,437.33	1,103.20	461.67	289.99	98.24	265.59	75.41		15,687.94
July	1,445.23	60.68	79.26	9,769.57	512.13	885.28	431.92	63.77	76.62	47.13	545.26	13,915.85
Aug	2,353.68	114.84		10,464.62	539.81	889.23	434.36	53.16	206.64	88.44		15,144.78
Totals	12,140.65	950.02	220.01	74,596.23	3,405.85	3,401.97	2,407.41	464.22	745.37	344.32	6,364.31	105,039.36
Percent of total	11.7%	.9%	.0%	71.2%	3.2%	3.2%	2.3%	.4%	.7%	.3%	6.1%	100.0%
	12.6%			87.4%								